Supreme Court, U.S.
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No. (1) 07-707

In The
Supreme Court of the United States

Ralph Kermit Winterrowd 2nd
Petitioners,

v.

State of Alaska

Respondents.

On Petition For Writ Of Certiorari To The Supreme Court of Alaska

PETITION FOR WRIT OF CERTIORARI

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Questions Presented

1. Whether the Petitioner has the constitutionally secured right to have Assistance of Counsel in the first instance as secured in the Sixth Amendment?
2. Whether the Petitioner has the constitutionally secured right to have Assistance of Counsel at sentencing as secured Sixth Amendment?
3. Whether the Petitioner has the right to have a judicial Officer of the several States with an Oath of Office to the Constitution of the United States as a judge in a criminal Trial by Jury under Article VI of the Federal Constitution, 1 Stat. 23 and Constitution of the State of Alaska Article XII Section 5?
4. Whether the Petitioner has the right to have an independent judge in a criminal Trial by Jury under Sixth Amendment?
5. Whether the Petitioner has the right to have inculpatory and exculpatory evidence suppressed by a rule of court, being Rule 16(a) to protect the State of Alaska, effective law enforcement and the courts and attorneys under the Fifth and Sixth Amendments?
6. Whether the Petitioner has a right to have a Trial by Jury of his Peers, being natives of one of the several States, i.e. citizens of the several States and not "citizens of the United States" under the Fifth and Sixth Amendments?
7. Whether the Petitioner has a right to have a Trial by Jury of people that are not prejudiced in favor of the Police under the Fifth and Sixth Amendments?

8. Whether the Petitioner has a right to have entered a Plea of "not guilty" on the record before the Petitioner can be tried by a jury under the Fifth and Sixth Amendments?
9. Whether the Petitioner has a right to have the documents of the Police that would impeach them that they hold no office of a civil nature under the Fifth and Sixth Amendments.
10. Judge Wolfe and DA Bangerter used the sentencing to threaten and coerce the Petitioner's First Amendment Right of free speech.

Parties to the Proceedings

Representing The Individually Named Respondents:
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Opinions Below

The denial by the Supreme Court is at **Appendix 1 – S12737 – Denied by Supreme Court of Alaska**.

The affirmation of the trial judgment is in **Appendix 2 – A-9588 – Court of Appeals unpublished Opinion.**

Jurisdiction

The jurisdiction of the Supreme Court of the United States arising under Article III section 1 and 2 of the Federal Constitution in all Cases in Law and Equity exercising the judicial Power of the United States under the Authority of the United States and the Judiciary Act of 1789 Section 25 as a Law of the United States.

Petitioner is an American citizen, citizen of the United States of America, Natural Born Native of the one of the several States being Kansas, i.e. a "Kansan" (Gov. Style Manual 5.23 ("In designating the natives of the several States . . .")) domiciled in Alaska.

Petitioner is not a "citizen of the United States" under Civil Rights Act of 1866, as amended, ("CRA 1866") memorialized in 14th Amendment to the Constitution of the United States; and, as found in the Code of 42 U.S.C. §§§ 1981, 1982 and 1988 (Revised Statutes of 1878 Title XXIV – Civil Rights).

Alaska is not one of the several States as evidenced the public records of Public Law 85-508 (72 Stat. 339) as the Alaska did not come into the Union of States of the Federal Constitution as "one of the United States of America", but as a "State of the United States of America" and Alaska did not come into the Union of States of the Federal Constitution

on an "equal footing with the ***original States***", but as an "equal footing with the ***other States***" *ibid 72 Stat. 339.* This is but a tip of the constitutional issues beyond the scope of this Writ of Certiorari, but this is inextricably intertwined with the constitutional secured rights of the Petitioner. As a *matter of law*, the "State of Alaska" government isn't one of the several States, which is inextricably intertwined in this instant Case of the Petitioner.

Constitutional Provisions Involved

Constitutional provisions of Article VI of the Federal Constitution "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding. . . . and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution;"

Fifth Amendment to the Federal Constitution "nor be deprived of life, liberty, or property, without due process of law;"

Sixth Amendment to the Federal Constitution "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State . . . and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence."

Statement of Facts

Petitioner has been harassed by the Alaska State Troopers ("AST") and the Anchorage Police Department ("APD") wherein the AST and APD will write citations whenever they see the Petitioner. Then the Petitioner will be denied the right to go to a trial and the citation will be defaulted out for money and with three of these resulting in suspension of the Petitioner's Alaska Driver License ("ADL").

Petitioner took one such incident to the United States District Court ("USDC") in Anchorage on a mere registration traffic citation and the use of excessive force by the AST, being Case 3-02-cv-00097. Chief Judge Singleton denied me the right to confront my accusers in any court on the citation, but the excessive force was appealed to the 9th Circuit in Case 04-35855, i.e. *Winterrowd v. State*, 480 F.3d 1181 (9th Cir. 2007). At the 9th Circuit, I won and the Case has been remanded back to the USDC for trial after ***5 years*** for the right to at least get into a court for the excessive force where Trooper Nelson got down on the hood of his car when I had a bad shoulder and kept hammering my shoulder so that when he finally let me up, I fell to the ground and was within seconds from totally passing out. I was denied at the state level and federal level of addressing the citation for registration in either court. Typical.

I. First Instant Violation of Federal Constitution - Petitioner Challenged Judge Wolfe Before First Court Date for an Independent Judge in violation of Federal Constitution, 1 Stat. 23 and the Constitution of the State of Alaska.

Petitioner filed in the District Court on or about September 14, 2005, **Appendix 9**, a Motion and Expedited Motion challenging Judge Wolfe that he was not an independent judge, did not have the mandatory Oath of Office as a judicial Officer of one of the several States under Article VI of the Federal Constitution, 1 Stat. 23 and the Constitution of the State of Alaska Article XII Section 5, which is just 41 words in quotation marks.

Petitioner also in **Appendix 9** challenged Judge Wolfe that he held no Office created by any constitution of the several States or by the Legislature of any of the several States, and was but a mere employee of the State of Alaska by submitting the employee affidavit of Presiding Superior Court Judge Beverly Cutler, being **Appendix 13**. In the employee affidavits such as **Appendix 13**, the wording is ***exact*** as the Article XII Section 5. As to the Oaths of the lower court judges, none of them match the mandatory Oath of a public officer in Article XII section 5 as shown in **Appendix 12**, being the Oath of Office of Judge Wolfe. It is mandatory that that also the Oath of a judicial Officer of the several States take an oath to the "Constitution of the United States" and not the "Constitution of the United States of America" as found in 1 Stat. 23, being in the public record, and also in Article II of the mandatory Oath of the President of the United States. The Oath taken by

the Supreme Court justices is different from the Oath taken by Judge Wolfe and neither match the mandatory Oath in Article XII Section 5.

The Administrative Office in Anchorage will not provide the employee affidavits of Judges or Justice since the issue has been used to court to prove the judges/justices are mere employees. Judge Wolfe refused to rule on the Expedited Motion and never did rule on the issue contained in the Motion and Expedited Motion for an Independent Judge to date. See **Appendix 9**.

Judge Wolfe has no Civil Commission under the signature of a Governor any of the several States that he holds a public office and this is evidenced by what a genuine Civil Commission in Alaska is, being **Appendix 11**. Judge Wolfe has what is called a mere appointment letter, being **Appendix 10**, with no letter head and ***no signature*** of any governor of any of the several States, but is a mere stamp. There is no Seal of the State of Alaska by the Secretary of State to validate the non-existence signature of any governor.

II. August 23, 2005 Special Appearance before Magistrate Zwink

In **Appendix** 4 – August 23, 2005 before Magistrate Zwink is the complete record. Petitioner did bring in a certificated copy of the Judgment from the Chickaloon Village Tribal Court, being **Appendix 5,** that was filed as a foreign judgment in Case 3PA-05-1542CI and recorded in the Palmer Recording District under Rule 301 and Rule 302 of the evidence rules. This presumption must be rebutted or it stands as true to be presented to the jury. I was not allowed to enter this into evidence

into the trial for the jury to see and the State of Alaska ("SOA") uses Criminal Rule 16 to protect the SOA, effective law enforcement and the courts and attorneys. The subpoena that was issued to the Clerk of Court, being the custodial of said record was quashed.

There was no Arraignment as I did not have Assistance of Counsel and no ***plea*** was entered. It didn't even come up in the record. Magistrate Zwink volunteered that the Petitioner was in the Court by special appearance. See **Appendix 4**.

III. Appendix 6 – September 19, 2007 with Judge Wolfe.

I had filed in prior to this very first proceeding an Motion and Expedited Motion to have an independent judge. See **I. First Instant Violation of Federal Constitution - Petitioner Challenged Judge Wolfe Before First Court Date for an Independent Judge in violation of Federal Constitution, 1 Stat. 23 and the Constitution of the State of Alaska,** *supra*.

IV. Appendix 7 – February 2, 2006 Excepts – No Plea, denied Exculpatory and Impeachment Evidence.

The Petitioner challenged Judge Wolfe on the mandatory issue of there must be a ***plea*** entered into the record for which the jury try the facts of the Case. Upon reading the record Judge Wolfe, Judge Wolfe attempted to buffalo his way into establishing that there was a ***plea*** entered, but I had every transcript of every proceeding and it never happened, to which Judge Wolfe states "All right." Then Judge

Wolfe attempts to state that that there is a ***plea*** as that is how we got to trial, but the record precludes this as true. Then Judge Wolfe attempts to negotiate that a ***plea of not guilty has been entered***. Important issues such as this isn't a object for negotiation. Then Judge Wolfe commits perjury stating that he "Has, because I've entered it on your behalf. So you can explain to the jury that you didn't enter it, the court did." All of the volumes of pages of transcripts are not included as Petitioner did supply them to the Court of Appeals and the Supreme Court of Alaska, but Petitioner lacks the funds to print up the hundreds of pages in the Petition. But a clear reading of this excepts will support the fact that no ***plea of non-guilty was ever entered into the record and Judge Wolfe is negotiating this issue as the trial is concluding! Unbelievable, but the norm for these courts and Judge Wolfe.***

Then after all of these objections to the jury instructions that they must be true supported by all of the transcript as an Offer of Proof that there was no ***plea of not guilty***, ***Judge Wolfe provides to the jury a false statement "To these charges, a plea of not guilty has been entered."***

I objected to the denial of relevant evidence being entered into the Court. I objected to denial of getting any public records on the two Palmer Police as to their status and police powers, who they were really were, were they public officers, were they law enforcement offices or were they peace officers. Judge Wolfe with Bangerter denied all documents before and during the trial as no relevant, therefore thwarting any chance of impeaching the witnesses.

The Petitioner objected to denial of the quashing of the subpoena to Judge Cutler concerning "citizens of the United States" only are allowed on juries or in

grand juries.

The Petitioner's subpoena to Duane Bannock who is the in charge of DMV and who has stated on a video of him that there is no ADL provision for non-commercial motor vehicles was quashed. ***I also wanted Bannock's testimony that the suspension for a ADL is ONLY for 90 days, i.e. finite. This would prove conclusively that the suspension was over in January 2005, long before the August 2005 arrest.***

Petitioner's subpoena to the Head Clerk of Court who is the custodian of the Foreign Judgment and the person who acted as a magistrate for my initial incarceration was quashed as I wanted to impeach her to holding two offices, of course with neither existing.

Petitioner objected that Krauss did unlawfully arrest me for have a ***revoked ADL as evidenced by Appendix 3 – Initial Arrest***, but I was later charged with the ***suspended ADL.*** All denied by Judge Wolfe as irrelevant.

I was denied all evidence, including exculpatory and impeachment evidence. Only during the trial did I finally get the video of Palmer Police and is was so bad that it was of no use. The D.A. and the Palmer Police refused to produce the seized Chickaloon Driver License ("CDL") against my will by Officer Krauss and all pointed fingers at each other as to who had custody, of course with no chain of evidence either – all played stupid, objected to by Bangerter and supported by Judge Wolfe.

REASONS FOR GRANTING THE PETITION

A. Exceptional Circumstances

This case potentially affects each and every citizen of the several States' ability to obtain a fair trial pursuant to the Fifth Amendment with Due Process of Law; and, the Sixth Amendment of a Trial by the State; and, to be informed of the nature and case of Charge; and, to have Assistance of Counsel from the very first instance and at sentencing; and, have an independent judges with the proper Oath of Office as mandated by the Article VI of the Federal Constitution, 1 Stat. 23, the Constitution of the State of Alaska Article XII Section 5; and to have Civil Commissions in the public record to validate that the judicial Officers of the several States hold a valid public office of a civil nature.

The legal questions presented here are not "political questions" in themselves and they are resolvable by this Court exercising its Article III jurisdiction as they carry "significant political overtones" or "political implications" upon "'which depend public and private interests of vast magnitude.'" *INS v. Chadha*, 462 U.S. 919, 942-43(1983).

1. The Absence of a Plea before Jeopardy Attaches to the Jury is Fatal

Until the defendant pleaded, there is no issue submitted to the jury. The omission to plead is fatal to the judgment and this rule applies to cases of misdemeanor as well as felony cases and this was held in the adjudged decision of *Shelp v. U.S.*, 81 F. 694, (9th Cir. 1897), to wit:

> Until the defendant has pleaded to the indictment, there is no issue to be submitted to the jury, and the omission

> to plead is fatal to the judgment, even after verdict. **This rule applies as well to cases of misdemeanor as to cases of felony.** *Douglass v. State*, 3 Wis. 820; *Aylesworth v. People*, 65 Ill. 301; *State v. Williams*, 117 Mo. 379, 22 S.W. 1104; *State v. Hubbell*, 55 Mo.App. 262; *McFarland v. State*, 18 Tex.App. 313; *Roe v. State*, 19 Tex.App. 90; *Bowen v. State*, 108 Ind. 411, 9 N.E. 378; *State v. Cunningham*, 94 N.C. 824 ***[Emphasis added]***

In the adjudged decision in Texas in *Lumsden v. State* 384 S.W.2d 143, 144 (Tex. Cr. App. 1964) "It is well settled in this state that a plea must be entered in every criminal case and no plea is entered, the trial is a nullity, since there is no issue for the jury or the court." Citing *Huff v. State*, 25 S.W. 772, 772 (Tex. Crim. App. 1894); *Thompson v. State*, 80 S.W. 623, 623 (Tex. Crim. App. 1904); *Sims v. State*, 91 S.W. 579, 580 (Tex. Crim. App. 1906); *Mays v. State*, 101 S.W. 233, 233-34 (Tex. Crim. App. 1907); *Wengentroth v. State*, 294 S.W. 554, 554 (Tex. Crim. App. 1927); *Corley v. State*, 199 S.W.2d 782 (Tex. Crim. App. 1947); *Fowler v. State*, 230 S.W.2d 810, 810 (Tex. Crim. App. 1950).

In the adjudged decision of *Chesnut v. State*, 47 So.2d 248, 248 (Ala. App. 1950), to wit:

> There can be no trial on the merits in a criminal case until the defendant has pleaded not guilty, or this plea has been entered for him by the court; *377 *Jackson v. State*, 91 Ala. 55, 8 So. 773, 24 Am.St.Rep. 860; Howard v. State, 165 Ala. 18, 50 So. 954; Bowen v. State,

98 Ala. 83, 12 So. 808; Childs v. State, 97 Ala. 49, 12 So. 441.

See also *Rorex v. State*, 203 So.2d 294, 295 (Ala. App. 1967).

As the facts contained in the Appendix's in the statement of facts of the transcripts, *supra.*, Judge Wolfe attempted to negotiate with the Petitioner after the jeopardy had attached and gave false statements to the jury, which is a reversible error and fatal to the purported trial.

2. Petitioner was denied Assistance of Counsel from the very First Instance.

Petitioner was denied Assistance of Counsel in the first instance at the purported arraignment by Zwink on August 23, 2005, and then by Wolfe on September 19, October 27, November 21, 2005, December 23, 2005, January 31, Feburary 2-3, 2006 and Sentencing of February 14, 2006 This is in direct violation of the Declaration of Independence, the Judiciary Act of 1789 Section 35, the Sixth Amendment of the Constitution of the United States and the holdings of the Supreme Court of the United States. See *Powell v. State of Alabama*, 287 U.S. 45, 60, 68, 69, 70 (1932) ; *Hamiliton v. State of Alabama*, 368 U.S. 52, 54, 55 (1961); *Massiah v. United States*, 377 U.S. 201, 205 (1964); *McNeil v. Wisconsin*, 501 U.S. 171, 175 (1991); *Texas v. Cobb*, 532 U.S. 162, 167 (2001); *Brewer v. Williams*, 430 U.S. 387, 398, 399 (2001); *Gideon v. Wainwright*, 372 U.S. 335, 342, 343 (1963);

United States v. Gouveia, 467 U.S. 180, 187, 188. 189(1963); *United States v. Cronic*, 466 U.S. 648, 659 (1984); *Kirby v. Illinois*, 406 U.S. 682, 688, 689 (1972); *Pazden v. Maurer*,424 F.3d 303, (3rd Cir. 2005).

Assistance of Counsel is not a mere formality that can be dispensed with or ignored by Zwink, Bangerter, or Wolfe. See *Kirby v. Illinois*, 406 U.S. 682, 689, 690 (1972).

The Petitioner did make bona fide efforts to obtain Assistance of Counsel and yet Wolfe did proceed ignoring the Petitioner's constitutionally secured rights, losing any perceived jurisdiction, the trial and sentence was void. See *Johnson v. Zerbst*, 304 U.S. 458, 467, 468 (1938). The most pervasive of my rights is the right of Assistance of Counsel *United States v. Cronic*, 466 U.S. 648, 654 (1984). Waiving of the Assistance of Counsel must be on the record, but it isn't. See *Faretta v. California*, 422 U.S. 806, 835 (1975); *Johnson v. Zerbst*, 304 U.S. 458, 464, 465 (1938). Assistance of Counsel is to be at the sentencing and Winterrowd never asked. See *Mempa v. Rhay*, 389 U.S. 128, 135, 136 (1967). *Argersinger v. Hamlin*, 407 U.S. 25, 37, 38 (1972) are required for even Misdemeanors.

3. Petitioner was denied Assistance of Counsel at the Sentencing.

In the adjudged decision of the Supreme Court of the United States in *Argersinger v. Hamlin*, 407 U.S. 25, 37, 38 (1972) it pronounced

that Assistance of Counsel is to be at the sentencing and Winterrowd never asked. See *Mempa v. Rhay*, 389 U.S. 128, 135, 136 (1967), to wit:

> Obviously to the extent such recommendations are influential in determining the resulting sentence, **the necessity for the aid of counsel in marshaling the facts, introducing evidence of mitigating circumstances and in general aiding and assisting the defendant to present his case as to sentence is apparent.**
>
> **Even more important in a case such as this is the fact that certain legal rights may be lost if not exercised at this stage. . . . absence of counsel at the imposition of the deferred sentence might well result in loss of the right to appeal.** ***[Emphasis added]***

Even in the Court of Appeals non-published opinion, the court stated "Alaska courts have not addressed whether a valid waiver of counsel at trial remains in effect at later proceedings, or whether the court must obtain a separate waiver at each proceeding." Evidently the Court of Appeals lack the understanding that decisions of the Supreme Court of the United States are binding upon them, remembering also that none of the judges in the Court of Appeals has a Oath of Office mandated by Article VI of the Federal

Constitution, 1 Stat. 23 and Article XII Section 5 of the Constitution of the State of Alaska.

4. Unconstitutional to Withhold Exculpatory and Inculpatory Evidence and Impeachment Evidence.

In the holding of the adjudged decision of *Strickler v. Greene*, 527 U.S. 263, 263 (1999), to wit:

> There are three essential components of a true *Brady* violation: the evidence at issue must be favorable to the accused, either because it is exculpatory, or because it is impeaching; that evidence must have been suppressed by the State, either willfully or inadvertently; and prejudice must have ensued.

Prong one of the essential components *ibid Strickler of a Brady violation* is that denial of the evidence of the violation is favorable to the Petitioner as it is both exculpatory and impeaching the Complaint by Krauss; and, prong two being that the violation to date has been suppressed by the STATE OF ALASKA, Krauss and Bangerter, be it either willfully or inadvertently; and, prong three the suppression of the violations of the does prejudice the Petitioner as relevant evidence is being withheld from the jury.

Ibid at 280-281, to wit:

> [1][2][3] In Brady, this Court held "***that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment,***

> ***irrespective of the good faith or bad faith of the prosecution.***" 373 U.S., at 87, 83 S.Ct. 1194. ***We have since held that the duty to disclose such evidence is applicable even though there has been no request by the accused***, United States v. Agurs, 427 U.S. 97, 107, 96 S.Ct. 2392, 49 L.Ed.2d 342 (1976), and ***that the duty encompasses impeachment evidence as well as exculpatory evidence***, United States v. Bagley, 473 U.S. 667, 676, 105 S.Ct. 3375, 87 L.Ed.2d 481 (1985). Such evidence is material ***"if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different."*** Id., at 682, 105 S.Ct. 3375; see also Kyles v. Whitley, 514 U.S. 419, 433-434, 115 S.Ct. 1555, 131 L.Ed.2d 490 (1995). Moreover, the rule encompasses evidence "***known only to police investigators and not to the prosecutor***." Id., at 438, 115 S.Ct. 1555. In order to comply with Brady, therefore, "***the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in this case, including the police.***" Kyles, 514 U.S., at 437, 115 S.Ct. 1555. ***[Emphasis added]***

Criminal Rule 16(a) is used by SOA and Bangerter to withhold inculpatory and exculpatory evidence, wit:

> (a) Scope of Discovery. In order to provide adequate information for informed pleas, expedite trial, minimize surprise, afford opportunity for effective cross-examination, and meet the requirements of due process, discovery prior to trial should be as full and free as possible ***consistent with protection of persons, effective law enforcement, and the adversary system. [Emphasis added]***

In Appendix 7 – Trial Day 3 – February 2, 2006, Bangerter states in the rebuttal "***Mr. Winterrowd in this case was held to the rules of evidence just as the state was.***" Criminal Rule 16(a) is strictly for the benefit of the SOA, Palmer Police and courts precluding a Trial by Jury of my Peers with all of the inculpatory and exculpatory evidence and all impeachment evidence of the parties involved relevant to even be presented to a jury.

STATE OF ALASKA", which has been determined is a person, i.e. fictional entity for Criminal Rule 16(a). See *Mustafoski v. State*, 867 P.2d 824 (Alaska Ct. App. 1994); *Halligan v. State*, 624 P.2d 281 (Alaska 1981); *Clark v. State*, 738 P.2d 772 (Alaska Ct. App. 1987); *Matanuska-Susitna Borough v. King's Lake Camp*, 439 P.2d 441 (Alaska 1968); *Stroh v. Alaska State Hous. Auth.*, 459 P.2d 480 (Alaska 1968); *Hull v. Alaska Fed. Sav. & Loan Ass'n*, 658 P.2d 122 (Alaska 1983); *Von Gemmingen v. First Nat'l Bank*, 789 P.2d 353 (Alaska 1990); *State, Dep't of Revenue ex rel. Gerke v. Gerke*, 942 P.2d 423 (Alaska 1997); *Foltz-Nelson Architects v. Kobylk*, 749 P.2d 1347 (Alaska 1988).

The subpoenas were all suppressed denying the Petitioner the exculpatory and impeachment

evidence that prejudiced the Case. See all of the excerpts of the hearings and trial in the Appendix and in the statement of facts, *supra*.

Criminal Rule 16(a) is in direct opposition the holding in *Strickler, supra.* and *Brady* violations *Strickler.*

5. Petitioner has a constitutional secured right to have a judicial Officer of the several States and to impeach any witnesses that are impersonating public officers of any of the several States.

In the Constitution of the State of Alaska Article XII Section 5, to wit:

> SECTION 5. OATH OF OFFICE. All public officers, before entering upon the duties of their offices, shall take and subscribe to the following oath or affirmation: "**I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as . . . . . to the best of my ability.**" The legislature may prescribe further oaths or affirmations.

Compare this to the purported Oath of Office at **Appendix 12 of Judge Wolfe,** to wit:

> I. John W. Wolfe [printed], do solemnly swear that I will support an defend the Constitution of the United Sates of America and the constitution of the State of Alaska and that I will faithfully discharge my duties as a judicial officer

> for the State of Alaska to the best of my abilities.

Are we to believe that the quotation marks are irrelevant and that Judge Wolfe can't get the 41 words correctly? Are we to believe that the "Constitution of the United States" is exactly the same as the "Constitution of the United States of America?"

Remembering the all of the people that work for the SOA must have an employee affidavit in which the 41 words are exactly correct. Being a mere employee

There is a constitutional difference between a party that holds a public office of a civil nature and a mere employee with ministerial duties. The Petitioner's limited delegation to the several States and the grant to the Congress is not subject to recasting or morphing into the hands of mere employees.

In the adjudged decision of *State v. Hawkins*, 257 P. 411, 413-418 (Sup. Ct. Mont. 1927) is an exhaustive examination of the essential elements to be a "public Officer" of a civil nature in any of the several States and the requirements pertaining to the creation of an "Office" in any of the several States based upon the holdings of many decisions of numerous courts of the several States which are omitted for brevity, but are relied upon, and this holding is ibid at 418, to wit:

> After an exhaustive examination of the authorities, we hold that five elements are indispensable in any position of public employment, in order to make it **a public office of a civil nature**: (1) It **must be created by the Constitution or by the Legislature** or created by a

> municipality or other body through authority conferred by the Legislature; (2) it **must possess a delegation of a portion of the sovereign power of government**, to be exercised for the benefit of the public; (3) the **powers conferred, and the duties to be discharged, must be defined, directly or impliedly, by the Legislature or through legislative authority**; (4) the **duties must be performed independently and without control of a superior power, other than the law**, unless they be those of an inferior or subordinate office, created or authorized by the Legislature, and by it placed under the general control of a superior officer or body; (5) it **must have some permanency and continuity**, and not be only temporary or occasional. In addition, in this state, **an officer must take and file an official oath, hold a commission or other written authority, and give an official bond, if the latter be required by proper authority.** ***[Emphasis added]***

This Court may not presume the existence that any of the Defendants are in fact either judicial Officers of the several States or executive Officers of the several States, *ibid* at 414, " . . . we may not presume he is an officer; it must be shown. * * * It must appear in the record" (citations omitted).

Another extensively researched case on "public Officer" and the requirement of the creation of an "Office" is *State v. Cole*, 148 P. 551, 552 *et seq.* (Sup.

Ct. Nev. 1915) which is based upon the holdings of many decisions of numerous courts of the several States which are omitted for brevity, but are relied upon, held *ibid* at 552 an Office can't spring into existence, but must be created, to wit:

> An office does not spring into existence spontaneously. It is brought into existence, either under the terms of the Constitution, by legislative enactment, or by some municipal body, pursuant to authority delegated to it. "All public offices must originally have been created by the sovereign as the foundation of government."

In the adjudged decision in *Hawkins*, *supra.* at 415 citing the holding of *State v. Spaulding*, 72 N.W. 288, 291 (Sup. Ct. Iowa 1897), the distinction of a "position", i.e. mere employee is explicated from an [public] officer, to wit:

> "A **position**, the **duties** of which * * * **can be changed at the will of the superior**, * * * is not an office, but a mere employment, and the incumbent is not an officer, but a **mere employee**." ***[Emphasis added]***

And further, in the adjudged decision of *Hawkins*, *supra.*, at 417 explicating when a "position" is created not by force of law, but by a contract of employment, it isn't an "office", "When a position is created, not by force of law but by contract of employment, the employment does not rise to the dignity of an office."

A "public Officer" as distinguished from an "employee" must be invested by law with a portion of the state's sovereignty for the public benefit largely independent of the control of others and authorized

to exercise functions either of executive, legislative, or judicial character. See *State Ex rel. Newman v. Skinner*, 191 N.E. 127, 128 (Sup. Ct. Ohio 1934); *City of Groves v. Ponder*, 303 S.W. 485, 488 (Tex. Civ. App. 1957); *State ex rel. Milburn v. Pethtel*, 90 N.E.2d 686, 689 (Sup. Ct. Ohio 1950); *Dunbar v. Brazoria County*, 224 S.W.2d 738, 740 (Tex. Civ. App. 1949); *Application of Barber*, 100 N.Y:.S.2d 668, 670 (Sup. Ct. Albany County, N.Y. 1951); *Francis v. Iowa*, 98 N.W.2d 733, 735, 736 (Sup. Ct. Iowa); *State ex rel. Dunn v. Ayers*, 113 P.2d 785, 787 (Sup. Ct. Mont. 1941).

Judge Wolfe, Krauss and Bangerter all worked together to deny the Petitioner impeachment evidence. Judge Wolfe refused to rule on the Motion and Expedited Motion for an Independent Judge as presented in **Appendix 9 – Motion for Independent Judge.**

The Petitioner attempted to exclude both Officer Steen and Officer Krauss from the trial under the use of the exclusionary rule, but Bangerter designated Officer Krauss the representative of the state, being an investigator, remembering that Officer Krauss is an employee of the Palmer Police Department.

The Petitioner objected, but Judge Wolfe overruled the Petitioner stating that under Alaska Evidence Rule 615(2) – Exclusion of Witnesses "An officer or employee of a party which is not a natural person designated as its representative by its attorney."

The Petitioner objected that only an Attorney can represent a fictional entity. I wanted to see the authority to do this, but it was denied. More of Rule 16(a) to protect "effective law enforcement."

6. Citizens of the United States Established in 1866

The Civil Rights Act of April 9, 1866, 14 Stat 27, ch.31, 39th Congress, Session 1, section 1, defined who are citizens of the United States and "their rights and obligations" "in every State and Territory." Section 3 describes that the district courts and circuit courts of the United States have cognizance of all causes, civil and criminal, affecting persons who cannot enforce their rights secured in the first section of the act at the state court level.

The statutory rights granted by Congress to these individuals were to confer the status of citizenship upon a class of persons incapable of becoming citizens of the United States due to slavery. "No white person born within the limits of the United States, and subject to their jurisdiction, or born without those limits, and subsequently naturalized under their laws, owes the status of citizenship to the recent amendments [13th, 14th and 15th] to the Federal Constitution." See *Van Valkenburg v. Brown*, 43 Cal. 43, 44(1872). And the 14th Amendment "furnish[ed] a new basis of Federal numbers in the State, upon which a new apportionment of representation in Congress is to follow."

Reference to the term "white citizens" is found today in Title 42, section 1981, section 1982 and section 1988 under Revised Statutes of 1878 Title XXIV, - Statement of equal rights, where such statutory rights granted to persons shall be available "as is enjoyed by white citizens ..." All of the Civil Rights Acts of 1866 as amended are posited in Title 42, which are all "citizen of the United States" allowed to enter the Article III courts under the cover of the "federal question" enacted in 1875, *supra*.

This has no application to the citizens of the several States, being the founders of the Republic with birthrights established by birth being citizens of one of the several States or naturalization as a "citizen of the United States of America" then becoming a citizen of one of the several States.

It is held in the Declaration of Independence that all men "are endowed by their Creator with certain unalienable Rights" and not granted rights by congressional statute. The Constitution affirms this principle in Article IV, section 2 that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." The power of naturalization pursuant to Article I, section 8, is to make citizens of the respective States, see Ex Parte *Knowles*, 5 Cal. 300 (1855), and a

> "citizen of any one of the States of the Union, is held to be, and called a citizen of the United States, although technically and abstractly there is no such thing. To conceive a citizen of the United States who is not a citizen of some one of the States, is totally foreign to the idea, and inconsistent with the proper construction and common understanding of the expression as used in the Constitution,"

ibid at 302. The California Supreme Court continued with "a distinction both in name and privileges is made to exist between citizens of the United States *ex vi termini*, and citizens of the respective States. To the former no privileges or immunities are granted;" *ibid* at 304.

By a law of Congress, *statutory* rights were granted to citizens of the United States that are distinct from those inalienable rights of a citizen of one of the several States, *Madden v. Kentucky*, 309 U.S. 83, 90-91(1940); *U.S. v. Cruikshank*, 92 U.S.

542, 551-53(1875). In *Maxwell v. Dow*, 176 U.S. 581, 597-98(1900), "the privileges and immunities of citizens of the United States do not necessarily include all the rights protected by the first eight amendments to the Federal Constitution against the powers of the Federal government." There are clear lines between the differences of these two classes of citizenship.

The Judiciary Act of 1789, under section 11, stipulated the real parties qualified to bring suit before the circuit courts of the United States exercising the judicial Power of the United States pursuant to Article III, those being, "an alien is a party, or the suit is between a citizen of the State where the suit is brought, and a citizen of another State." The Supreme Court has ruled that when there is a joint interest involved, each person competent to sue is entitled to be represented, see *Strawbridge v. Curtis*, 7 U.S. 267(1806). But, there was no provision for a citizen of the United States to be heard in an Article III court until the act of 18 Stat 470, ch.137.

The Plaintiffs' citizenship status by birthright is a citizen of the United States of America and has never been controverted

7. Courts to Take Judicial Notice of Public Records

In *Jones v. United States*, 137 U.S. 202, 212, 214 (1890) it was held that public acts and public records is not a judicial issue, but a political question and therefore binds all judges even if not formally put into evidence.

Therefore, the Plaintiffs give Notice that all of the public record and acts are to be put into evidence even though not entered as such.

Conclusion

The Petitioner has the correct political status and citizen status of one of the citizens of the several States with our rights secured in the Federal Constitution. The Petitioner is pursuing all peaceful legal and lawful means to have a fair Trial by Jury of his Peers, remembering that the Petitioner is disenfranchised from being a qualified voter as he can't commit a class be felony by claiming to a "citizen of the United States" when he has personal knowledge that this is untrue.

Our constitutional Republic hangs by a mere thread and unless we can restore it piece by piece, all is lost.

For these reasons, the Petitioner prays that this Court protects the integrity of the Constitutional Republic's judiciary system and grant certiorari to adjudicate the issues presented.

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Appendix

Appendix 01 – S12737 - Denied by Supreme Court of Alaska.

In the Supreme Court of the State of Alaska

Ralph Kermit Winterrowd 2nd Petitioner
v.
State of Alaska Respondent
) Supreme Court No. S12737
) **ORDER**
) Petition for Hearing
) Date of Order 8/24/07
Trial Court Case # **3PA-05-02098CR**
Court of Appeals # **A-09588**

Before: Fabe, Chief Justice, and Matthews, Eastaugh, Bryner, and Carpeneti, Justices.

On consideration of the Petition for Hearing filed on 5/29/07, and the response filed on 6/13/07,

It is ORDERED:

The Petition for Hearing is **DENIED.**

Entered by the direction of the court.

Clerk of the Appellate Courts
/s/ Marilyn May

cc: Supreme Court Justices
Court of Appeals Judges
Judge Wolfe
Central Staff
Trial Court Appeals Clerk-Palmer

Appendix 02 – A-9588 - Court of Appeals unpublished Opinion

Court of Appeals – State of Alaska

Only the Westlaw citation is currently available.
NOTICE: UNPUBLISHED OPINION NOTICE
Memorandum decisions of this court do not create

legal precedent. See Alaska Appellate Rule 214(d) and Paragraph 7 of the Guidelines for Publication of Court of Appeals Decisions (Court of Appeals Order No. 3). Accordingly, this memorandum decision may not be cited as binding precedent for any proposition of law.

Court of Appeals of Alaska.
Ralph K. WINTERROWD 2nd, Appellant,
v.
STATE of Alaska, Appellee.
No. A-9588.
May 9, 2007.

Appeal from the District Court, Third Judicial District, Palmer, David L. Zwink, Magistrate, and John W. Wolfe, Judge.

Ralph K. Winterrowd 2nd, pro se, Wasilla.
Jarom B. Bangerter, Assistant District Attorney, Palmer, Roman J. Kalytiak, District Attorney, Palmer, and David W. Márquez, Attorney General, Juneau, for the Appellee.

Before: COATS, Chief Judge, and MANNHEIMER and STEWART, Judges.

MEMORANDUM OPINION AND JUDGMENT

COATS, Chief Judge.

*1 Ralph K. Winterrowd 2nd was charged with driving a motor vehicle while his license was suspended. He represented himself at trial and was convicted of that offense. On appeal, Winterrowd argues, among other things, that his conviction is invalid because he did not knowingly and intelligently waive his right to counsel. Having reviewed the record, we find no merit to this claim. Winterrowd's other claims either fail on the merits or

are inadequately briefed. We therefore affirm his conviction.

Facts and proceedings

On August 10, 2005, Palmer Police Officer Peter Steen noticed a blue pickup truck driving behind him on the Parks Highway. He was not on duty, but he was in uniform and driving a marked police vehicle. The pickup stayed behind Officer Steen as he drove through Wasilla to the Glenn Highway and into Palmer. Officer Steen believed the vehicle was following him because it was "matching me turn for turn and for speed the entire time." Officer Steen recognized the vehicle because he had seen photographs of it that were taken during prior stops of the vehicle by the Alaska State Troopers. He called dispatch and asked them to run a check on the license plate number. Dispatch reported that the truck was registered to Winterrowd. Dispatch also reported that Winterrowd's Alaska driver's license was suspended.

Because Officer Steen was off-duty, he contacted Palmer Police Officer Philip Krauss and asked him to conduct the stop. Officer Krauss responded to the scene and pulled Winterrowd over. Winterrowd made a video recording of the contact. When Officer Krauss contacted Winterrowd, he advised him that he had been stopped because his Alaska driver's license was suspended. Winterrowd produced a Chickaloon driver's license. Officer Krauss arrested Winterrowd for driving with a suspended license.

Winterrowd was charged with driving while license suspended.[FN1] He represented himself at trial, and a jury convicted him of that offense. He appeals.

FN1. AS 28.15.291(a)(1).

Why we conclude that Winterrowd was not denied his right to counsel

Winterrowd argues that he was denied his right to counsel at arraignment, trial, and sentencing. He argues that he made "bona fide efforts to obtain Assistance of Counsel and yet [the court] did proceed ignoring [his] constitutionally secured rights, [and] losing any perceive[d] jurisdiction, the trial and sentence was void."

Before permitting a defendant to waive counsel and proceed pro se, a trial judge must explain the advantages of having an attorney in some detail.[FN2] The record must show that the defendant was advised of the dangers and disadvantages of self-representation and that the defendant had the mental competence to understand those dangers.[FN3]Moreover, the record must show that the court inquired about the defendant's educational background, experience with criminal trials, and general competence to proceed pro se.[FN4] If a defendant has the mental competence to understand the court's advisements, but nevertheless refuses to apply for court-appointed counsel or to take reasonable action to hire private counsel, the defendant by his conduct will have knowingly waived his right to counsel.[FN5]

FN2.*Evans v. State*, 822 P.2d 1370, 1375 (Alaska App.1991).

FN3.*James v. State*, 730 P.2d 811, 813-14 & n. 1 (Alaska App.1987), *modified on rehearing*,739 P.2d 1314 (Alaska App.1987).

FN4.*Id.*

FN5.*Gladden v. State*, 153 P.3d 1028, 1030 & n. 4 (Alaska App.2007).

Arraignment

*2 Winterrowd was arraigned before Magistrate David L. Zwink on August 23, 2005. Magistrate Zwink gave Winterrowd a copy of the complaint and advised him of the charges against him. He then scheduled a pre-trial conference, noting that "[a]ll rights regarding everything are obviously ... totally reserved."

Magistrate Zwink did not advise Winterrowd of his right to counsel as required by Criminal Rule 5(c), and the record is silent as to whether Winterrowd viewed a video advising him of his rights. Nevertheless, we conclude that any error in failing to advise Winterrowd of his right to counsel at arraignment was harmless. Winterrowd has not alleged that he entered a plea, made admissions, lost defenses, or otherwise was prejudiced because he was not informed of his right to counsel at that stage in the proceedings.[FN6] And given that Winterrowd in all later proceedings steadfastly refused to hire an attorney or to apply for appointed counsel, it appears clear he would not have asked Magistrate Zwink to appoint an attorney prior to his pre-trial conference even if he had been advised he had that right.

> FN6. *See, e.g., United States v. Owen*, 407 F.3d 222, 226-29 (4th Cir.2005) (assuming, without deciding, that arraignment is a critical stage of criminal proceedings under the Sixth Amendment, but finding that any error in the court's failure to observe the right to counsel was harmless because the defendant did not show prejudice); *Remsen v. State*, 495 N.E.2d 184, 188 (Ind.1986) (assuming that defendant's right to counsel was not scrupulously observed at his initial appearance, but finding that any error was

harmless because there was no evidence that the prosecution benefited); State v. Bradley, 535 So.2d 1108, 1109 (La.App.1988) ("Any error in the court's failure to advise a defendant of his right to counsel when he pleads not guilty at arraignment is harmless, because he does not give up, but exercises at that juncture, his right against self-incrimination and his right to a trial."); *Johnson v. State*, 631 So.2d 185, 188 (Miss.1994) (quoting *Wright v. State*, 512 So.2d 679, 681 (Miss.1987)) (holding that arraignment as practiced in Mississippi is not a critical stage where the presence of counsel is required under the Sixth Amendment, and holding that a denial of counsel at that stage does not constitute reversible error unless it is shown "that the accused experienced some untoward consequence flowing directly from denial of counsel.").

Trial

Winterrowd appeared before District Court Judge John W. Wolfe for a pre-trial conference on September 19, 2005. Judge Wolfe asked Winterrowd if he wanted an attorney, but Winterrowd would not directly answer that question. Judge Wolfe then advised Winterrowd of what an attorney could do for him:

Let me explain what an attorney's job is so you can understand what an attorney could do for you if you had one. An attorney's gone to law school to study law and pass the test to show that he or she is knowledgeable about Alaska and U.S. law. An attorney would discuss this case with you in private and could not reveal anything you said to them unless you wanted them to do so. An attorney would

get the police report in this case, investigate the case for you, determine whether there are defenses to the case. They'd file motions on your behalf and could speak for you at all hearings, including a trial. They could also try to negotiate a favorable resolution to the case with the [district attorney] if you wanted them to do so. They could advise you on whether or not you should have a trial, and if there was a trial, they'd make objections for you, make sure no inadmissible or improper evidence was presented. An attorney would present evidence that [would] be favorable to you and question any witness who spoke against you. Even if you thought you wanted to admit these charges at sentencing, an attorney could present favorable information and make argument on your behalf. And because this right [is] so important, if you couldn't afford one, the court would appoint one to represent you.

Following this advisement, Judge Wolfe tried again to ascertain whether Winterrowd wanted an attorney. Winterrowd said he had the money to hire a "counselor at law"-if he could find one. Judge Wolfe also tried to establish if Winterrowd was competent to represent himself by asking Winterrowd about his level of education. Winterrowd refused to answer. Judge Wolfe then advised Winterrowd in more detail of the many disadvantages of a pro se defense.

*3 At trial call, Judge Wolfe again asked Winterrowd if he wanted an attorney. Winterrowd responded that "the only thing that I would even consider is assistance of counsel as secured in the Sixth Amendment, and they don't even exist." Wolfe then explained, in even more detail, the function and advantages of an attorney and the hazards of

proceeding without one.

Judge Wolfe also advised Winterrowd of the elements the State would have to prove to convict him of driving with a suspended license, and of the maximum sentence he would face if convicted. He asked Winterrowd if he had tried to hire an attorney. Winterrowd responded: "Why would I want to hire an attorney when they won't sign [my] contract[.]"Winterrowd insisted he could afford an attorney, and he refused to apply for court-appointed counsel. Judge Wolfe warned Winterrowd that if he did not protect his right to an attorney by either hiring one or applying for court-appointed counsel, the court would rule that he had by his conduct waived his right to counsel.

Judge Wolfe then tried again to establish Winterrowd's competence to represent himself, but Winterrowd again refused to provide direct answers:
Court: Can you tell me ... what level of education you have? Do you have formal education?
Winterrowd: It's none of your business....
....
Court: Have you participated in any criminal trials?
Winterrowd: I've seen enough of the kangaroo courts in here.
Court: Okay. Have you ever represented yourself?
Winterrowd: Absolutely never. I can't represent myself, it's illegal and unlawful, and I am myself.
Court: Are you under the influence of any alcohol or drugs today?
Winterrowd: I don't know, I'm not, are you?

Judge Wolfe ruled that Winterrowd understood his right to counsel and the dangers of proceeding pro se,

that he was competent to waive his right to counsel and minimally competent to represent himself at trial, and that he had, by his conduct, waived his right to counsel. He then asked Winterrowd if he wanted a continuance so he could hire an attorney. Winterrowd reiterated that he would hire an attorney if he could find one who would sign his contract.

At trial, Winterrowd asserted several times that he had been forced to represent himself because no attorney would sign his contract. But he said nothing to suggest that he had changed the position he took pre-trial and that he was now willing to take realistic steps to hire an attorney or to apply for an attorney at public expense. In this respect, Winterrowd's case is reminiscent of *Gladden v. State*,[FN7] where we held that the defendant had waived his right to counsel by insisting on an attorney who would sign a similar contract, while conceding he knew no attorney would sign such a contract.[FN8]

FN7. 153 P.3d 1028 (Alaska App. 2007).

FN8. *Id.* at 1031-32.

We agree with Judge Wolfe's assessment that Winterrowd made a competent and informed decision to represent himself. He refused to take realistic steps to hire an attorney even though he was repeatedly admonished about the benefits of counsel and the hazards of proceeding without one. We also agree that Winterrowd was at least minimally competent to represent himself. His case was not complicated, and he has not asserted that he had any difficulty understanding the court's advisements.[FN9]

FN9. *See O'Dell v. Anchorage*, 576 P.2d 104, 108 (Alaska 1978).

Sentencing

*4 Winterrowd also argues that he was denied his right to counsel at sentencing because Judge Wolfe did not ask him if he wanted counsel in that proceeding. Winterrowd did not raise this claim below, so he must show plain error.[FN10]

FN10. *See* *Winkler v. State*, 580 P.2d 1167, 1173 (Alaska 1978) (citing Alaska R.Crim. P. 47(b)).

Alaska courts have not addressed whether a valid waiver of counsel at trial remains in effect at later proceedings, or whether the court must obtain a separate waiver at each proceeding. But in *Gladden* we noted that "the weight of authority in other jurisdictions is that a valid waiver remains in effect unless the defendant explicitly revokes it or there is a change of circumstance that gives the court reason to renew its inquiry."[FN11] Winterrowd has not alleged, nor does the record show, that there was a change of circumstance that gave Judge Wolfe reason to renew his inquiry at sentencing. Winterrowd therefore has not shown plain error.

FN11. 153 P.3d at 1032 & n. 12.

Winterrowd's other claims

Winterrowd asserts that a person with a social security number is a "citizen of the United States" with no constitutionally secured rights. He claims that he does not fall into this category-that he is instead an "American citizen." Furthermore, he argues that his citizenship should have been an issue for the jury.

Although Winterrowd plainly considers this distinction significant in his case, it is not. A jury finding that Winterrowd was an American citizen, rather than a United States citizen, would not have affected the outcome of his case. The pertinent

question for the jury was whether Winterrowd was driving in Alaska at a time when his Alaska driver's license was suspended or revoked. FN12

FN12.*Cf.* *Busby v. State*, 40 P.3d 807, 815-16 (Alaska App.2002).

Winterrowd argues that there are no attorneys properly licensed to practice law in Alaska. We previously rejected that claim in *Crane v. State*.FN13 He also appears to argue that the supreme court violated the Alaska Constitution by enacting Criminal Rules 5 and 5.1, a claim we rejected in *Gladden*.FN14

FN13.118 P.3d 1084 (Alaska App.2005).

FN14.153 P.3d at 1033.

Winterrowd argues that the allegation that his license was suspended was not supported by probable cause. But the officer's affidavit in support of the complaint alleges that Officer Steen observed Winterrowd driving at a time he knew Winterrowd's license was suspended. Those facts support a finding of probable cause. Furthermore, at trial the jury was instructed that it could not convict Winterrowd unless it found that his license was suspended.

Winterrowd also argues that the jury never determined that he drove on a "highway or vehicular way or area." But the jury was instructed that driving on a "highway or vehicular way or area" was an essential element of the offense of driving with a suspended license. Moreover, there was evidence to support the jury's finding on this element: Officer Steen testified that he observed Winterrowd drive on the Parks and Glenn highways at a time when his license was suspended.

Winterrowd argues that his right to discovery under

Alaska Criminal Rule 16 was violated because the court quashed his subpoenas and because the State refused to produce documents showing that Officers Steen and Krauss were public officers with police powers. But in district court and on appeal, Winterrowd failed to show that the testimony and documents he sought were material to his defense. The court therefore did not err in quashing his subpoenas and in refusing to compel the State to produce the documents he requested.

*5 Winterrowd also argues that the State violated Rule 16 by not disclosing the police video until the day of trial. But even if the record supported this claim, Winterrowd has not advanced any plausible way in which he was prejudiced.[FN15] The State did not offer the video into evidence, and Winterrowd had his own video recording of the police contact.

FN15. *See Jurco v. State*, 825 P.2d 909, 917 (Alaska App.1992).

Winterrowd complains that the judge and prosecutor had a financial interest in the outcome of his case. He also argues that his sentence violated his first amendment rights, was vindictive, and that the court impermissibly relied on facts not proved to the jury. But he does not articulate in any understandable way how the judge and prosecutor had a financial interest in the outcome of his case. Nor does he explain what made his sentence vindictive, how it violated his first amendment rights, or what facts the court impermissibly relied on in sentencing him. These claims are therefore inadequately briefed.[FN16]

FN16. *See Katmailand, Inc. v. Lake and Peninsula Borough*, 904 P.2d 397, 402 n. 7 (Alaska 1995); *Petersen v. Mutual Life Ins. Co. of New York*, 803 P.2d 406, 410 (Alaska 1990).

If Winterrowd intended to raise additional claims, we cannot meaningfully address those claims on the briefing before us.

Conclusion

Winterrowd's conviction is AFFIRMED.

Appendix 03 – Initial Arrest of Petitioner on August 10th, 2005

Officer Krauss Arresting Petitioner on August 10th, 2005 (Video by Petitioner entered into Evidence)

OFFICER KRAUSS - Also while you getting your Driver License would get your uh proof of insurance also.

MR. WINTERROWD – uh – ok ... lets see here now

OFFICER KRAUSS – unintelligible – make it so that that car see everything.

MR. WINTERROWD – And who are you sir.

OFFICER KRAUSS – Officer Krauss of the Palmer Police Department

MR. WINTERROWD – ***Am I under arrest***?

OFFICER KRAUSS – ***No.***

MR. WINTERROWD – ***Am I free to go***?

OFFICER KRAUSS – ***No***

MR. WINTERROWD – ***Am I in a commercial motor vehicle***?

OFFICER KRAUSS – ***No.***

MR. WINTERROWD – ***I am invoking my right to have assistance of Counsel.***

OFFICER KRAUSS – Do you have your Driver License with you? Do you have your Driver License with you

MR. WINTERROWD - I-ah-ah I am going to answer your question if you would just answer my question sir.

OFFICER KRAUSS – 10-77 – ***Would you confirm that Winterrowd's is revoked***?

MR. WINTERROWD – I have a – ah

OFFICER KRAUSS – 10-4 thank you.

OFFICER KRAUSS – Ok Mr. Winter-er – Winterrowd – You need to step out of your vehicle because a now as ***you are under arrest now for driving while license is revoked***.

MR. WINTERROWD – I have a driver license if you would just give me a second here.

OFFICER KRAUSS - Ok, well let me see it.

MR. WINTERROWD – If you just give me one second here and answer my question, ***I am invoking my fifth . . .***

OFFICER KRAUSS – OK

MR. WINTERROWD - . . . . amendment right of assistance of counsel to not give evidence

OFFICER KRAUSS . . . step out of your vehicle

MR. WINTERROWD – . . . to remain silent - - sir

OFFICER KRAUSS – step out of your vehicle.

MR. WINTERROWD – Sir, do you understand what I just said?

OFFICER KRAUSS – MR. WINTERROWD, would you step out of your vehicle, at this point you are ***under arrest while driving while license revoked.***

MR. WINTERROWD – Sir, I have a driver license if you would just would just give me a second, OK

OFFICER KRAUSS – You haven't shown it to me yet.

MR. WINTERROWD – Well, you er . . you are being so abusive here .... ***you are violating my rights.***

OFFICER KRAUSS – How am I violating your rights?

MR. WINTERROWD – ***Sir, Because I have the right to Assistance of Counsel here, and you did a constitutional seizure and you are not even allowing me to invoke . . .and your not waiting til I get assistance of counsel. And I am in fear of my life because that is a loaded gun sir and I don't have a loaded gun sir.***

OFFICER KRAUSS – No, that is a radio.

MR. WINTERROWD – No, you have a gun. .... What's that thing hanging over there?

OFFICER KRAUSS – Ok, you were pointing at my radio.

MR. WINTERROWD – I am not going to allow you to take it because it is my person property. I have a Chickaloon Driver License.

OFFICER KRAUSS – Let me see you Chickaloon Driver License

MR. WINTERROWD – It's right here.

OFFICER KRAUSS – Ok, step out of the vehicle Mr. Winterrowd.

MR. WINTERROWD – Can you see it.

OFFICER KRAUSS – ***You are under arrest while driving with license revoked.*** **[Grabs my Chickaloon Driver License and puts it in his vest.]**

This is not an Alaska Driver License.

MR. WINTERROWD – I didn't say.

OFFICER KRAUSS – ***Your privilege to drive in the State of Alaska is revoked.*** You need to step out of your vehicle.

MR. WINTERROWD – So you are going to put me under arrest – is ... so that not a valid license.

OFFICER KRAUSS – No.. it . . ***your privilege in the State of Alaska is revoked.***

MR. WINTERROWD – That has been over with a long time ago – I could go get a driver license . . . in Alaska if I so chose to, I chose to get a Chickaloon Driver License.
OFFICER KRAUSS – Step out of your vehicle, turn your vehicle off and step out of your vehicle.
MR. WINTERROWD – sighs.
MR. WINTERROWD – I am going to turn my video off. Let the record show that I getting out under threat, duress, and coercion because I am getting threatened and I have a driver license and that I – what is your name again?
OFFICER KRAUSS – Officer Krauss.
MR. WINTERROWD –***Knause took my driver license – took the driver license against my will.***

Appendix 04 – August 23, 2005 Special Appearance before Magistrate Zwink

Complete Initial Hearing
with Magistrate Zwink
August 23, 2005

THE COURT: And, let's see. Mr. Winterrowd is here, and I don't know who else is here, so let's take up Mr. Winterrowd. It's 05-2098. Mr. Winterrowd, did you get a copy of the complaint, sir?
MR. WINTERROWD: I've not seen any probable charge, any complaint yet. I've been trying to get one, but.....
THE COURT: Well, here, come on up, I'll give you this one, sir. There you go.
MR. WINTERROWD: Yeah. And I'm going to talk about this, we can get this resolved today.
THE COURT: Thank you. Did you give a copy of this to the D.A.?
MR. WINTERROWD: I most certainly have. THE

COURT: Okay, thank you.
MR. WINTERROWD: And like to create just a brief record here. I'd just like to get your name and your bar card number for the record, sir?
THE COURT: Mr. Winterrowd, you and I have been in this room so many times, it's ridiculous, so.....
MR. WINTERROWD: Well, I -- I'm not being facetious, I'm not trying to cause you any trouble. I'm hope that.....
THE COURT: Okay.
MR. WINTERROWD: .....we can get this resolved today, because I have a ***foreign judgment sitting before the court.....***
THE COURT: Okay.
MR. WINTERROWD: .....right now. And it has also been over here in this court, registered as a foreign judgment under 3PA--which you can look up on your computer--dash 05 dash 1542 CI. Said foreign judgment is coming in under your Rules of Court 9(e).....
THE COURT: Let's look.....
MR. WINTERROWD: .....pleading special matters to aver. I have a copy of.....
THE COURT: That -- that's fine. Look it, I will take this order in here, and I was simply going to assign this to whoever's got -- well, can give this to whoever's the assigned case on this thing, but.....
MR. WINTERROWD: ***You're not going to rule on that? I am entering that under the Rules of Evidence 303(a)(2), under criminal, and under -- it's to create more than a presumption, and you are bound, sir, under 301(a) to rule on it with evidence.*** And, actually, this guy, who is this guy over here? I'd like to know what his name is because I don't know this gentleman over here.
THE COURT: He is the district attor.....

MR. PERRY: My name's Mr. Perry.
MR. WINTERROWD: Well, I'm sorry?
MR. PERRY: P -- Perry, P-e-r-r-y.
MR. WINTERROWD: P-e-r-r-y?
MR. PERRY: Uh-huh (affirmative).
MR. WINTERROWD: P-e-r-r-y. And your first name, sir?
THE COURT: What was the -- what -- I'm sorry, what was the civil case number you had with the.....
MR. WINTERROWD: It is 05 -- I'm sorry, 3PA.....
THE COURT: Uh-huh (affirmative).
MR. WINTERROWD: .....05.....
THE COURT: Right.
MR. WINTERROWD: .....1542, and it's a foreign judgment. And I'm getting the -- it registered in the public record. And, Mr. Perry, could I have ***your bar card number, please***? MR. PERRY: I don't have a bar card number yet, Mr. Winterrowd.
MR. WINTERROWD: Oh, you're not an attorney yet?
MR. PERRY: I am an attorney, but I'm operating under a special 10-month rule as a brand new attorney.
THE COURT: Oh-five 1542.
MR. WINTERROWD: Oh. So have you filed in your.....
MR. PERRY: My bar number is pending.
MR. WINTERROWD: Have you filed in your ***Rule 64 affidavit and your Rule 5 oath of off – oath***?
MR. PERRY: That's being taken of, yes, by the state.
MR. WINTERROWD: So -- so you have?
MR. PERRY: Yes, sir. Your.....
MR. WINTERROWD: You have filed on the record.
MR. PERRY: On the record, no.
THE COURT: Well, unfor -- okay, excuse me. Unfortunately, my system is still down here, so I'm going to have -- I will have to get -- you know, get

that other case.
MR. WINTERROWD: You mean we aren't on the record, is that what you're saying?
THE COURT: No. We are, but I can't look anything up in my system because my computer is.....
MR. WINTERROWD: Oh.
THE COURT: .....shot right now.
MR. WINTERROWD: Okay.
THE COURT: So what I'm going to do is I'm just going to kick this over, put this for standard pre-trial conference. ***All rights are reserved. This is a special appearance only.***
MR. WINTERROWD: ***I object, take exception.***
THE COURT: That's fine, noted.
MR. WINTERROWD: And before -- while we're on the record, I do want to do a ***citizen's arrest because Mr. Perry over here definitely knows that you're not an independent judge, you're an arbiter of the fact and law.***
THE COURT: Okay, this is -- this is.....
MR. WINTERROWD: You're the judicial.....
THE COURT: .....the request is denied.
MR. WINTERROWD: I'm -- just give me just one quick second, sir.
THE COURT: Mr. Winterrowd.....
MR. WINTERROWD: And he is under ***citizen's arrest*** because he is aware of all of these issues and he's proceeding forward. And I have no idea what the charge is, and they had notice prior to coming into this. Mr. Kalytiak.....
THE COURT: Mr. Winterrowd?
MR. WINTERROWD: Yes.
THE COURT: I have suggested that, since apparently you think the state is illegally formed, that you sue it through federal courts to have the state disbanded.

MR. WINTERROWD: That is not the issue before the court.
THE COURT: I do not have.....
MR. WINTERROWD: That's not an issue before the court.
THE COURT: .....I do not have time to waste the other people's times that are around here on these issues that have been significantly litigated many, many, many times.
MR. WINTERROWD: That's not the issue before this court, sir.
THE COURT: So you make -- the issue before this court is that.....
MR. WINTERROWD: Is that foreign judgment right there.
THE COURT: That's fine, that's here.
MR. WINTERROWD: ***That's all I've raised. I haven't raised any of these other issues.***
THE COURT: No, I'm simply saying I will accept this in here. I have not ever researched any of this. I don't know anything of what's gone on in the 05-1542 case, I'm simply giving time to be able to look at this stuff.
MR. WINTERROWD: That's not a problem. I -- I don't have.....
THE COURT: That's fine.
MR. WINTERROWD: .....object to that at all. And I have a copy here. It's not -- I'm going to be filing an amended. If you'd like this before I file it into the court so you can read it in your chambers, would you like that?
THE COURT: Is that an extra? Is that an extra copy or is that your only copy?
MR. WINTERROWD: It's -- no, I have another one because I'm going down to get the certified copy out of the -- you know, the.....
THE COURT: If that's a spare copy you have, I'd be

happy to take it.
MR. WINTERROWD: Yeah, I mean, I haven't.....
THE COURT: That's fine.
MR. WINTERROWD: .....filed this because I'm getting the registered part into the recording district. But you can see the rules that I'm bring it in, and you're -- I'm sure you're aware of Evidence Rule 303(a)(2) and 303(a) -- or 301(a). And, on that, the next page over here, I have the -- this is where they -
THE COURT: Uh-huh (affirmative).
MR. WINTERROWD: .....recognized by the governor, this is recognized by the United States, this comes under the Evidence Rule and -- nine, it's all rules of court. And I'll be filling in this and I will be refiling this as the amended part because I'm filing [sic] that in.
THE COURT: Under the 1542 case?
MR. WINTERROWD: Yes. Yes, I am.
THE COURT: Okay. That's fine.
MR. WINTERROWD: And so you can get a co -- I'll be sure you get a copy of it, and I'll leave one here for them to give to you as soon as -- I'm just waiting on the recording district because they weren't able to assist me this morning, I had too many people ahead of me.
THE COURT: That's -- well, I have noted that, and I'm going to have that pulled to check it also, so.....
MR. WINTERROWD: Okay. It'll be filed here a little later today, probably within about an hour.
THE COURT: And assuming the power stays on.
MR. WINTERROWD: Can't help that, but I'm.....
THE COURT: You're right. None of us.
MR. WINTERROWD: .....a qualified electrician.
THE COURT: Okay. So I'm going to ju.....
MR. WINTERROWD: And just for the record, sir, I hope that you're not part of this case because I'm real

serious about this, and we -- and you know I am serious.
THE COURT: I understand that you're serious.
MR. WINTERROWD: And -- and I have all the documents, all under the rules of court, so I'm.....
THE COURT: ***And I would be more than thrilled if this whole matter would be firmly and finally resolved, frankly.***
MR. WINTERROWD: ***I might resolve it because I followed all the rules, and it's a foreign judgment, they've accepted it, and I'm going to put it in the public record.***
THE COURT: It would work for me.
MR. WINTERROWD: Thank you. I even have the clerk of the tribal court with me today here. But you're going to accept that document as a certified copy?
THE COURT: Well, it certainly.....
MR. WINTERROWD: It is a certifi.....
THE COURT: .....it appears to be a certified copy of the tribal court emergency order.
MR. WINTERROWD: Right. And so it's -- I just want that on the record, that -- that I've given you a copy.....
THE COURT: Oh, yes.
MR. WINTERROWD: .....and I'm going to give a cop.....
THE COURT: Oh, no doubt.
MR. WINTERROWD: .....copy to Mr.....
THE COURT: ***No doubt. This is the emergency order dated 10th of August, '05.***
MR. WINTERROWD: Right. And I'm going to give a certified copy to Perry's office over here, because it shows in the -- my thing that I'm dropping it off at his office. So I'm going to get the rest of it, and then I'm going -- Mr. Perry, let the record show, in his

office. Kalytiak will have -- he's already got a copy of it, but you're going to get one also under the recording district where it's a public record.
THE COURT: Okay. So.....
MR. WINTERROWD: He -- let the record show he already has a copy of this other one I dropped off.
THE COURT: Okay, then that would show.
MR. PERRY: That's correct, Your Honor.
THE COURT: Now, let's see, this is.....
MR. WINTERROWD: So the obvious question is, why am I here?
THE COURT: Because the state is alleging that you were driving a motor vehicle at a time that you were supposed to have a license and you didn't have one. That's.....
MR. WINTERROWD: Well, they confiscated the Caecilian.....
THE COURT: But that's what they're -- that's going to be their problem to have to prove it later on, and you've already -- you're already presenting your other evidence on here, so.....
MR. WINTERROWD: ***They have to, under Evidence Rule 301, have evidence. I have created not only the presumption, but I have created irrefutable evidence and entered it into the court.*** And Mr. Perry has acknowledged that they had prior notice of this. So why am I here?
THE COURT: Explained why, you just don't have to agree with it, and that's fine.
MR. WINTERROWD: It's -- they have to provide evidence. No presumption, evidence. That's Evidence Rule 301.
THE COURT: ***That's exactly true***. And let me just.....
MR. WINTERROWD: And it'd be nice that I finally got this because I've tried every way in the world to

get a copy of the probable cause, because there's many other issues. Who is this guy representing? ***And this policeman, he was an agency, an agent of who? And who is this guy representing? Is he representing the agency***? I have no idea of all these fixtures [sic]. But there's a real quick fix right there.

THE COURT: September 19th at 10:30 in front of Judge Wolfe. Maybe it will all be resolved and that will be canceled before then, but that'd be the next time that the matter would be.....

MR. WINTERROWD: September 19th?

THE COURT: September 19th at 10:30. That'd be the next time the matter would be discussed on record. All rights regarding everything are obviously.....

MR. WINTERROWD: Heath?

THE COURT: .....totally reserved.

MR. WINTERROWD: Did you say Heath or Wolfe?

THE COURT: Judge Wolfe.

MR. WINTERROWD: Wolfe, good.

THE COURT: Okay. And in the meantime, be able to get -- you ex -- so you expect by the end of the day, at least, to have that amended copy filed?

MR. WINTERROWD: I will ha -- they -- I went in this morning at 7:30, and they had a whole bunch of title companies ahead of me and they said it'd be about a half hour, so as soon as I get a copy.....

THE COURT: And then, of course, it all fell apart from there. That's fine. Then I will just make a note to make sure that by some time tomorrow I pull that file so that I -- by -- that should give you enough time to be back here, once again, assuming the power stays on.

MR. WINTERROWD: I'll make a copy and put your name on it out there.

THE COURT: Okay. Thank you, sir.

MR. WINTERROWD: Thank you.

Appendix 05 – 3PA – 05-1542CI - Foreign Judgment of Chickaloon Tribal Judgment In Palmer Recording District

Certified Copy of Foreign Judgment from Chickaloon Filed in the Palmer Recording District (Certified Copy)

2005-022833-0
Recording Dist: 311 – Palmer
8/23/2005 8:36 AM Pages 1 of 1
Palmer Recording District
Return to:
Ralph Kermit Winterrowd 2nd
c/o P.O. Box 877109
Kink
Alaska territory
The United States of America [99687]
Nay'dinl'aa Na (ChickaloonVillage)
TRIBAL COURT
C/o Box 1105
Chickaloon, Alaska territory [99674]

Ralph Kermit Winterrowd 2nd)
Plaintiff(s))
v.) Case No. 2005-08-01
Officer Phil Krauss; Officer Pete)
Steen; All Law Enforcement Officers)
And law Enforcement Agencies,)
State of Alaska)
Defendants)

EMERGENCY ORDER

1. The Nay'dinl/aa Na (Chickaloon village) Tribal Court finds that the Chickaloon Village (Nay'dinl'aa Na) is a valid Alaska driver license; and,
2. That the State of Alaska and all law enforcement agencies are hereby Noticed and enjoined by the ORDER of this Court to cease and desist arresting or harassing Ralph Kermit Winterrowd 2nd concerning the issue of a valid Alaska Driver License while in possession of a valid Chickaloon Village (Nay'dinl'aa Na) Tribe and that said driver license be immediately return to Ralph Kermit Winterrowd 2nd.
Dated this 10th day of August, 2005.

/s/ Jessie Lanman
Jessie Lanman, Tribal Court Judge

This is a true and correct copy of the [SEAL]
Nay'dinl'aa Na (Chickaloon Village)
Tribal Emergency Order
/s/ Delice Calcote 8/22/05
Tribal Court clerk Date
[Above statement of Clerk has
of the true and correct - Seal of Chickaloon Court]

Appendix 06 – September 19, 2007 with Judge Wolfe.

THE COURT: *State versus Mr. WINTERROWD Winterrowd*, 5 -- 2098. Mr. Winterrowd's present. And, Mr. Winterrowd, are you still representing yourself?
MR. WINTERROWD: Let the record show that I'm in fear of my life because I see two members of a paramilitary organization standing by, Lieutenant

Roberts, under use of force continuum, and I guess another one back there, and there's a third one.
THE COURT: All right. Mr. Winterrowd, are you repre.....
MR. WINTERROWD: And I -- I'm not sure, ***why are you here? I have put in a demand for an independent judge. Is that not in the record?***
THE COURT: I do have a.....
MR. WINTERROWD: It's not been ruled on. I demanded an independent.....
THE COURT: .....motion.
MR. WINTERROWD: .....judge that's not the ***arbiter to the facts or the law and*** a bar member.
THE COURT: All right.
MR. WINTERROWD: It's not been ruled on.
THE COURT: Yeah, this motion is not quite ripe yet. This was filed on September.....
MR. WINTERROWD: I put in an expedited, sir.
THE COURT: Just writing up expedited on a motion doesn't comport with the rules of criminal procedure.
MR. WINTERROWD: I put an affidavit with it and I gave a time delay, so what's not right?
THE COURT: ***So I'm not considering it as an expedited matter,*** so it'll become ripe on the 28th of September.
MR. WINTERROWD: Well, ***<u>until I get a independent judge, we have nothing to talk about that I can see.</u>***
THE COURT: All right. Mr. Winterrowd.....
MR. WINTERROWD: Sir?
THE COURT: .....do you want to do anything with regard to your trial call date, which I don't see is even set?
MR. WINTERROWD: Yes, sir, we have some other problems here. And first of all, I put that information in under Evidence Rule 303. I noticed the -- you are --

what's your name, sir, for the record?
THE COURT: Mr. Winterrowd.....
MR. KALYTIAK: I'll talk to the court, Your Honor, not the defendant.
MR. WINTERROWD: Okay. Well, whoever this guy is over here.
THE COURT: .....you -- address -- right, address remarks to the court.
MR. WINTERROWD: I.....
THE COURT: So, Mr. Winterrowd, I don't see a trial call date set for you. Do you -- how far out would you like to set a trial call?
MR. WINTERROWD: Sir, ***we're not even past the probable cause yet.***
THE COURT: All right. I'm going to.....
MR. WINTERROWD: I put in a document, if you read, in the court again to -- I mean, if you bother to look in the record there, it said.....
THE COURT: I'm going to set a trial call for you for.....
MR. WINTERROWD: .....I put in a foreign judgment.
THE COURT: .....October the 27th at 2:30.
MR. WINTERROWD: ***And are you not going to read the – what's in the court record,*** sir?
THE COURT: So trial call October 27th at 2:30.
MR. WINTERROWD: Sir, I have no other choice because I've asked for an ***independent judge***, and I cannot sit here in good conscience because ***you are in violation of the Constitution of the United States, Article VI. I have to put you under citizen's arrest, sir. I – you're impersonating a public officer. I put in documents under 303, and you have to rebut as evidence 301***. I'm also.....
THE COURT: Mr.....
MR. WINTERROWD: ***.....alleging that you're doing acts of terrorism and committing acts of***

treason with these people, because I'm definitely in fear of my life.....

THE COURT: Mr. Winterrowd, did you.....

MR. WINTERROWD: .....right now, and I'm doing nothing wrong.

THE COURT: .....did you watch the videotape explaining your trial rights?

MR. WINTERROWD: Watch a videotape?

THE COURT: Did you watch a videotape for arraignment purposes where they explain your rights?

MR. WINTERROWD: ***I haven't been arraigned.*** There hasn't been any probable cause yet.

THE COURT: Okay.

MR. WINTERROWD: ***We haven't got past the independent judge part yet. I just put you under arrest, sir.***

THE COURT: I show you were arraigned, so let me go over your rights.....

MR. WINTERROWD: No, I was not arraigned, sir. I was personally there, and I -- I'm definitely cognizant of -- I'm highly intelligent.

THE COURT: Do you want an attorney to represent you, Mr. Winterrowd?

MR. WINTERROWD: Pardon?

THE COURT: Do you want an attorney to represent you?

MR. WINTERROWD: I've -- you've got to be kidding me. We haven't even got to that point. I have the right of assistance of counsel, and I'm.....

THE COURT: Let me.....

MR. WINTERROWD: .....not going to waive it on the record, and I can definitely afford a counselor at law.

THE COURT: Let me explain what an attorney's job is so you can understand what an attorney could do

for you if you had one. An attorney's gone to law school to study law and pass the test to show that he or she is knowledgeable about Alaska and U.S. law. An attorney would discuss this case with you in private and could not reveal anything you said to them unless you wanted them to do so. An attorney would get the police report in this case, investigate the case for you, determine whether there are defenses to the case. They'd file motions on your behalf and could speak for you at all hearings, including a trial. They could also try to negotiate a favorable resolution to the case with the D.A. if you wanted them to do so. They could advise you on whether or not you should have a trial, and if there was a trial, they'd make objections for you, make sure no inadmissible or improper evidence was presented. An attorney would present evidence that'd be favorable to you and question any witness who spoke against you. Even if you thought you wanted to admit these charges at sentencing, an attorney could present favorable information and make argument on your behalf. And because this right's so important, if you couldn't afford one, the court would appoint one to represent you. So, having all this in mind, Mr. Winterrowd, do you want an attorney to represent you?

MR. WINTERROWD: Sir, I object, protest and take exception to this, because you left out some other things. All these attorneys that practice law have a Rule 9 under the judicial.....

THE COURT: I just had a simple question, do you want an attorney to represent you or not?

MR. WINTERROWD: ***I want a counselor at law***.

THE COURT: And have you taken steps to see if you can afford your own attorney?

MR. WINTERROWD: I can afford by -- I can afford a

counselor at law, provide assistance of counsel secured under the Sixth Amendment. But we got some other problems here. We have not even had any probable cause yet.
THE COURT: Have you taken any steps to determine whether you can hire a counselor at law, Mr. Winterrowd?
MR. WINTERROWD: Well, I -- I object, we're not even there yet. Where's the probable cause?
THE COURT: Just.....
MR. WINTERROWD: I haven't even been arraigned.
THE COURT: .....can you answer my question, Mr. Winterrowd?
MR. WINTERROWD: Sir, I.....
THE COURT: Have you.....
MR. WINTERROWD: .....I did. I am competent to hire a counselor at law, if I can find one.
THE COURT: And let me ask what makes you.....
MR. WINTERROWD: And as soon as I can find out what the charge is, the probable cause.....
THE COURT: What makes you.....
MR. WINTERROWD: .....we will proceed forward?
THE COURT: .....what makes you think you're competent? Do you have any legal training yourself, Mr. Winterrowd?
MR. WINTERROWD: Probably more than most attorneys.
THE COURT: Okay. Have you got a high school education?
MR. WINTERROWD: But you're not going to qualify me here by this thing, sir. We -- we got to have an arraignment, we got to have probable cause. You got the cart ahead of the horse.
THE COURT: All right. I'll just advise you that if you show up for trial call without an attorney and you go to trial without an attorney, you're going to be at a

distinct disadvantage to the state because the state will be represented by experienced counsel. You'll be expected to know what the rules governing court procedure are. There may be defenses that you fail to raise because you don't know what those legal defenses are, that you may take a course of action that may actually prejudice you by opening certain evidentiary doors that the state would then be allowed to exploit. There are various other disadvantages in appearing for yourself at trial. I think I've made attempts to explain to you what an attorney could do for you. It sounds to me like you're not wanting to follow the usual procedures with regard to these cases, and.....

MR. WINTERROWD: You mean like having a -- like having.....

THE COURT: .....I believe you do understand your right to counsel, so.....

MR. WINTERROWD: Assistance of counsel.

THE COURT: .....I will make further inquiry of you at trial call. But if you -- if you're.....

MR. WINTERROWD: Trial call when?

THE COURT: It's going to be October the 27th at 2:30, so.....

MR. WINTERROWD: ***What's the – what's the charge***?

THE COURT: The charge is driving.....

MR. WINTERROWD: Well, you know, it'd be really nice to know what the probable cause is. I have submitted a certified copy of a foreign judgment. Do you not have that there? And, you know.....

THE COURT: Mr. Winterrowd, I show that you are actually.....

MR. WINTERROWD: .....a magistrate, David [sic] Zwink, quite understood that the burden of proof sets on whoever this gentleman over here that chooses to

talk to the court.
THE COURT: I show that you were arraigned on October the twenty -- or, excuse me, August the 23rd before Magistrate Zwink. And you were provided a cop.....
MR. WINTERROWD: Absolutely a prevarication of the nth degree, never even came up, sir.
THE COURT: .....provided a copy of these charges, and ***that you were advised of your rights. So you have been arraigned,*** Mr. Winterrowd.
MR. WINTERROWD: Absolutely not so.
THE COURT: So the next court date, Mr. Winterrowd, is October.....
MR. WINTERROWD: Winterrowd.
THE COURT: .....27th at 2:30, and that'll be trial call. Now, if we have trial and if you happen to be the first one for trial, let me just give you -- the trial, if any, would start on November the 1st at 8:30. So do you have any questions for me, Mr. Winterrowd?
MR. WINTERROWD: Yes. Are you -- ***are you an independent judge?***
THE COURT: ***Yes.***
MR. WINTERROWD: You are, for the record? You're not the ***arbiter of the facts or the law as it says in the judicial code*** which you're bound by? I -- you know, I would really like a ruling on that. So on my -- on that demand, you are -- you are an independent judge, and you're not the arbiter in the facts and the law bound by the judicial code that's in the preamble, is that correct, sir?
THE COURT: We're not speaking the same language, but I am an independent judge, Mr. Winterrowd.
MR. WINTERROWD: You are -- so -- so that's your finding on my demand, is that correct? ***Have you read my demand***?

THE COURT: ***I scanned some of it.***
MR. WINTERROWD: Scanned it?
THE COURT: It's not ripe.....
MR. WINTERROWD: ***Why are you smirking? It's not funny, sir.***
THE COURT: It's not ripe for de.....
MR. WINTERROWD: I have a right to have an independent judge.
THE COURT: .....it's not ripe for decision yet, so I haven't explored it in detail yet, Mr. Winterrowd. So any other questions for me before we adjourn?
MR. WINTERROWD: Have you looked on the -- when I put in. if you read the thing there, which didn't happen, I put in a certified copy, and David [sic] Zwink, Magistrate David [sic] Zwink said the burden of proof is on this gentleman over there. ***I registered a foreign judgment.....***
THE COURT: It certainly will be at trial, Mr. Winterrowd.
MR. WINTERROWD: Oh, at trial.
THE COURT: That's correct.
MR. WINTERROWD: ***Oh, so the burden of proof doesn't work***
before?
THE COURT: ***That's correct.***
MR. WINTERROWD: So let me get another finding of fact here so I can -- we can move on and we can expedite a lot of things. Are.....
THE COURT: Well, I'm getting ready to move on. Do you have any.....
MR. WINTERROWD: .....are you.....
THE COURT: .....do you have any relevant questions about.....
MR. WINTERROWD: Well. sir, I -- I -- I'm go -- I'm not going to hang around in this court, obviously, and play games with somebody that's not -- not an

independent judge.
THE COURT: And I'm not going to hang around and play games with you, Mr. Winterrowd, so.....
MR. WINTERROWD: Okay. The other finding of fact, I had a.....
THE COURT: .....I think we'll.....
MR. WINTERROWD: .....Chickaloon driver license, which is.....
THE COURT: .....we'll go off record on Mr.....
MR. WINTERROWD: .....a valid Alaska driver's license. Is a Chickaloon.....
THE COURT: We're going off record.
MR. WINTERROWD: .....***driver's license valid Alaska license or not? Yes or no, just tell me for the record.***
THE COURT: I'm not going to give you legal advice, Mr. Winterrowd.
MR. WINTERROWD: I don't want legal advice, I want a finding.
THE COURT: That is legal advice, so you need to consult with a private attorney about that.
MR. WINTERROWD: No, I need to fi -- I need to consult with an in -- independent judge. This man is supposed.....
THE COURT: Mr. Winterrowd, we're ready to move on to other.....
MR. WINTERROWD: .....to be the prosecutor. Is it valid?
THE COURT: .....we're ready to move on to other cases, so you will need to vacate your chair.
MR. WINTERROWD: Well, thank you, sir.
THE COURT: Thank you.
MR. WINTERROWD: I'll see you in federal court.
THE COURT: The next is.....
MR. WINTERROWD: Be sure and bring your black robe.

(Other matters)

Appendix 07 - Trial Day 3 – February 2, 2006 Excerpts

Jury Instructions Objections by Petitioner

* * *

THE COURT: Oh, to these charges, ***the defendant has not pled, is*** that it?

MR. WINTERROWD: Well, first of all, I changed, near Palmer, in the Third District. ***There is no Third Judicial District***. In the court of Alaska's rule, there's no boundaries for it, Supreme Court of Alaska.

THE COURT: ***All right.***

MR. WINTERROWD: There is a third district. And I changed the -- let's see here, wait a minute. Have I got these in order? Just a minute here. I think I may have -- just a minute here. Okay. Yep. Somehow I got these out or order. They're not numbered so..... I only operate with my true, and that's it. That's an issue that was in there. And that, let's see here, I also took out that you said here the ***defendant has pled not guilty. That's not so. There's no evidence of that, and I have all the transcripts. I've never pled because I never had assistance of counsel***.

THE COURT: ***All right.***

MR. WINTERROWD: ***So that's not true, and I'm going to – and I – this – you can't put in something that's not true unless you got the evidence to prove it, because it never happened.*** Let's see, what else here? I think that's basically the main issues.

THE COURT: All right. With regard to your proposed instruction, I'm going to change your name to that what you've proposed because I didn't -- I left out the 2nd. I'll write the 2nd the way you wrote it

and spell out your middle name, Kermit Winterrowd.
MR. WINTERROWD: Winterrowd.
THE COURT: Winterrowd, sorry. ***And as far as the – the court entered a plea of not guilty for you if you refused to enter a plea. That's how we got to trial, so I'm going to leave that.....***
MR. WINTERROWD: Well, that's not -- that's not.....
THE COURT: .....I'm going to leave that as stated. ***You can say what you want to the jury about that issue.***
MR. WINTERROWD: ***Well, it says the defendant did.***
THE COURT: ***All right.***
MR. WINTERROWD: ***If you want to put in the court, then put in who – who in the court did. I want to know who that person was. Was it you, it was who? You tell me, because I've got all the transcripts. Never happened. It's got to be true. We got to give these jury instructions the truth.***
THE COURT: To these charges.....
MR. WINTERROWD: ***And they've had cases go through here where not guilty has been put in there.***
THE COURT: ***I will say plea of not guilty has been entered, how's that?***
MR. WINTERROWD: ***No.***
THE COURT: ***That's the best I'll do.***
MR. WINTERROWD: Okay. ***Has not been entered, okay.***
THE COURT: A plea of not guilty has been guilty, which I have.....
MR. WINTERROWD: ***Has been entered or has not been entered?***
THE COURT: ***Has, because I've entered it on your behalf. So you can explain to the jury that you didn't enter it, the court did.*** All right. And

the next jury instruction -- Mr. Bangerter, did you want to say anything more about that? MR. BANGERTER: No. ***[Emphasis added]***

* * *

Judge Wolfe Reading Jury Instructions to the Jury

The complaint states that on or about the 10th day of August, 2005, at or near Palmer, in the Third Judicial District--and I meant to change this, I'll do it now--Ralph Kermit Winterrowd, the 2nd, did unlawfully commit the offense of driving while license suspended when ***he drove a motor vehicle on a highway or vehicular way or area*** at a time when his driver's license or privilege to drive in this state or another jurisdiction -- this or another jurisdiction was suspended. ***To these charges, a plea of not guilty has been entered.*** This -- the complaint is not evidence of the defendant's guilt, it's merely the formal manner by which the prosecution accuses a person of a crime in order to bring him or her to trial. A jury must not presuppose any facts concerning the case or the defendant solely because the complaint was filed.

Closing Argument by Petitioner Excerpt

SR-22, they wouldn't address it, whether I had insurance or not. They didn't charge me with it. But they don't want to bring up the Chickaloon driver's license, the valid driver's license issue. My driving record, they wanted to talk about that little sliver that's in on the exhibit over here. Why couldn't I talk about all the rest of the issues on there? I have nothing to hide at all, absolutely nothing. I'm self taught. I have access to Westlaw, $683 a month. I could have a nice new car, a real nice new car. But the issue is that somebody must come forward. ***And this is my first trial. I have no assistance of***

counsel. And you don't even know what I'm talking about. I was denied the assistance of counsel. And you'll look at the jury instructions, ***I never pled not guilty. I never pled yet. You don't even technically have anything to try me on.*** But they're just going to move forward without that issue. The assistance of counsel doesn't even exist in Alaska. These attorneys and the bar are supposed to sign up when over -- anything over $500, what they can do for you and what they do. You can't be represented. I have a right to somebody to assist me and sign up what they can and can't do. They won't do it. They've taken an oath to it. I'd rather have somebody that's learned in the law up here. This is my first time out. I'm against a professional. That's what he does for a living. I've never done one of these before. I've tried to get into court on the lower level stuff, you know, to -- to do it, but they won't -- they wouldn't let me there.

And if you look at all of these facts, fact is an event. I'm holding a white piece of paper. The fact is, what does it say? That's a fact. When these two facts come together, reality hits, that's called truth. I haven't been able to get them in. I -- I -- I don't know. I -- I don't know if you saw how frustrated I was, or still am, but I couldn't get people in to tell you. It's like reading a book. Can you imagine reading a book, because I'm not a linguist, but I do a lot of reading, can you imagine reading a book and not knowing what the words mean, because they're terms, until you get through reading the book? This is how we hear these, well, these juries made these stupid --did you hear about that -- that stupid jury over there, the decision they made? The problem is that they weren't giving -- they were -- I -- I'm being tried on a belief system, what you believe. ***They're supposed to try***

me on the facts, what was introduced in evidence. What facts did the other side bring in? What did they bring in? A video that showed nothing. There's no other facts. *I brought in all kinds of facts, what I could get in.* If I'd had something to hide, *why would I subpoena the people that's the head of DMV or the clerk of the court next door because she's got more than one position which, in the law, she can't hold.* I wanted to tell you, yeah, *they have foreign judgments filed all the time, that I did everything right to the letter. I noticed everybody. I couldn't bring her in. I couldn't get it entered into evidence, not relevant.*

So the big issue here is the suspension, absolutely true. It was over. I could go to any jurisdiction, any jurisdiction. That's on the -- I introduced that in the federal. It says state or other jurisdiction. I can go to any jurisdiction, and as long as I abide by, and I did not try to circumvent what they said. I didn't try to go around anything. I said, okay, this is the rules. If I don't like the rules, I go change them, I don't try to circumvent them. And this explains *why partially Krauss said, well, it's – keep saying revoked. You heard him on the thing, I want to confirm, is it revoked, and he kept saying revoked.* Then, irrelevant, what I handed him. If he'd have had any knowledge, if they'd have read this hearsay knowledge that it was suspended, he has a duty then to say, well, maybe it's not in our computer. Do you have a driver license? He didn't want to do that, did he? You saw the video. That's a big issue. *It was – it was not revoked, it was – the suspension was over.* There was no anything, other than just these two little things, SR-22 and the driving record. Of course, they happened

to have the driving record. I took it to Chickaloon.

I'm going to hope that you do the right thing today. I'm not going to stop. If nobody can give me the facts, I did nothing wrong. I didn't meet any of these criteria. If you -- if I can't meet these criteria, and unless the person actually believes it did not exist, I didn't knowingly do this. Look at all the things I've tried to get in. It -- it wasn't knowingly. I didn't do any criminal negligence. The standard of care that a reasonable person would observe. I went to the nth degree. ***The head judge here okayed the foreign judgment. So why didn't they tell me it wasn't any good? I put it in the public record. What more could I have done?***

And to think that I'm going around to try to get police to pull me over And to think that I'm going around to try to get police to pull me over is absolutely ludicrous. I'm just driving down the road. He was in front of me. He was doing the speed limit and I'm doing the speed limit. If I wanted to get him to pull me over, I'd just sped around him, wouldn't I have? I'd have got him then, wouldn't I? We were both doing the speed limit. I didn't knowingly do something.

Can say this, the -- the real big issue is about money and with the Chickaloon driver's license because the State of Alaska does not have control behind the scenes, that when people like want to go to work and they don't pay CSED, because they don't do judgments, they don't do court, they just do some BS thing behind the scenes. You have a right to come to court. And they take people's ability to travel to support their families, so then you just keep pushing them farther down the system. That's not right, and it's not right to make money off of it. It is not right, folks.

Everything I've told you is absolutely the truth. I have nothing to hide. I was wanting him to ask me more questions. Why didn't he ask me some of these things if he wanted to -- did I hide anything? Did I say, oh, I don't know, I don't -- just talk to me, what is it you want to know? I have nothing to hide. I did everything to the nth degree.

Yes, I know a lot more about the law because I've seen the ills of our society, and I've been working at it a long time trying to figure out what is wrong, and how can I correct it within the system? I'm working within the system. ***Imagine, just like that Criminal Rule 16(a), this court operates knowingly withholding evidence, and they print it.*** Why is [State Representative] Vic Kohring trying to get it changed? Why do they go to all that trouble? Must be some truth to it. ***Common sense tells you that you have to – you should see everything that's against me, and everything that's for me.*** You cannot -- I didn't do anything knowingly because I didn't believe it does not exist? There's no way. Unless a person actually believes that it does not exist. ***I had a valid driver license. I still believe I do.*** No, but they don't want to talk about it, though. Why won't they talk about it? If it was State of Washington, they'd talk about it and I wouldn't even be here. They want -- they want to try to limit that I can't go get one someplace else. ***I could still walk over there and do it.*** I could have done that a long time ago and had this whole thing thrown away. And I'm not trying to litigate the Chickaloon, but I believe I'm right in what I did.

And I guess with -- in closing, I hope you will see that I've been real open.

THE COURT: You have about five minutes, if you want it.

MR. WINTERROWD: Okay. I've been real open, I have nothing to hide. All that record -- those records of the speeding, never went to trial on a one of them. There's all kinds. If you start adding them up, I tried to get to trial, and they just put those things in and they would default them. But they never would bring them -- they would -- never would do anything. There's no fines ever been paid on any of those. Not a one of them. Not a one has been to court. Why? I did everything right. I still believe I'm right. ***The officer made an illegal stop. And once the constitutional seizure happens, he has – he has to give me assistance of counsel and he cannot ask for evidence.*** It's like the *Miranda*, if you've of *Miranda* rights. ***Once that happens, that's a constitutional seizure. Nothing can happen beyond that point. He wouldn't stop.*** He just -- he -- and he was just talking to me, he said, I denied him assistance of counsel. And ***then he said he don't know what it is***, and he wrote the report up. I have a right to protect my rights. Not because I want to -- I was doing something criminal, but I have those rights. Do -- are we going to surrender? ***That's why we can't even talk constitutional law in this courtroom. It's not allowed here.*** It sounds pretty unbelievable, doesn't it? ***I talk about constitutional seizure, he says not relevant, ruling in this court***. But you can ignore the rulings, it says so right in the jury instructions.

I am asking you to go back there and look at facts, evidence. What do you got? Judge me by my demeanor, I have nothing to hide. There's a lot of things you're not going to see because I couldn't get them in, and they're relevant. This is a -- I wouldn't call it a railroad job, but it's a means to punish Mr. WINTERROWD. Am I a pain in the State of Alaska's

side? Absolutely, and the police. Because when you challenge authority, ***people like me tend to go to jail or we go away***. Invariably, that's the way it works. I don't have much to give my country. I'll fight for it to the death. But I do want to stand for the right for all of us, for the next generation, that ***we all have the right of a trial by jury to hear all the evidence,*** and why is he just -- why -- why can't you hear what's going on? ***If we can't trust our jury – you're our last bulwark against tyranny.*** If you can't hear all the facts, how can you make an intelligent decision? And I know some of you've had to have children. You get all the facts, you just don't -- you don't take one little sliver. And that's what he's trying to talk you into and make me into a bad guy. Never been convicted of any crime, anything, nothing, ever. Not even a ding, because I'm a defense driver. So I'm going to leave it with you that I hope you go back there and if you judge by the facts, and come back with an inno -- with a not guilty. Because, like I say, they had the wrong thing on the verdict. I could have got a default right there. ***I could have won today because they had the wrong charge on the verdict form. I told them to change it. I don't want to win that way. I want to win by my peers having the facts, and you come back with a not guilty. Thank you.***

THE COURT: Thank you, Mr. Winterrowd. Mr. Bangerter,
any closing?

Mr. Bangerter – State of Alaska Rebuttal

* * *

Mr. Winterrowd in this case was held to the rules of evidence just as the state was.

* * *

If this isn't an issue about Chickaloon, then why was about three-fourths of what we just heard about the Chickaloon driver's license? It's irrelevant. It does not matter. His license or privilege to drive in Alaska was suspended. ***It says it on the record, and pinned to that record, despite his claims of having a clean record, are six pages, six pages of bad driving. That's irrelevant, too, and I hate to even go into it, but I just don't like someone to come up here and say, my record's clean, and it's six pages. It's not a clean record. That's six pages of driving offenses, of speeding, plates, registration violations.*** This is a game to Mr. Winterrowd. It's simply a game. That's all it is. He's taking the state's time, he's taking your time to play a game and to play his issues and his political views of what he thinks the law should be. But the state has shown you what the law is. The state has met every one of those elements necessary to return a guilty verdict. And by doing so, this jury will simply uphold the Constitution and uphold the laws that this nation's founded on, okay? And by doing that, you're fulfilling your duty as a juror, as a member of this community, and you're doing the right thing.

Appendix 08 - February 14, 2006 – Sentencing

THE COURT: .....*Winterrowd, the sec -- Ralph Kermit Winterrowd, the 2nd*, Winterrowd, sorry about that, 05-2098. Mr. Winterrowd is present, and.....
MR. WINTERROWD: I'll take some hearing stuff because you're talking real low again.
THE COURT: Yes, we'll get you -- Madam Clerk, would you light up that hearing device, and.....
MR. WINTERROWD: Thank you.
THE COURT: Can you hear me okay, Mr.

Winterrowd?
MR. WINTERROWD: Yes.
THE COURT: Okay. All right. The way this will work is Mr. Bangerter will make any sentencing comments he has, and, then, Mr. Winterrowd, you can say anything you want. You don't have to say anything if you don't want to, but.....
MR. WINTERROWD: We have one issue before the court. I put in a motion to get this stayed until I can get the transcript done. It's being transcribed right now, because I wanted to offer conclusive evidence of what's going on here, but I don't have the transcript done yet.
THE COURT: All right. I'm going to deny the motion to stay. It's really not customary to delay sentencing until transcripts are prepared, so.....
MR. WINTERROWD: Objection.
THE COURT: I understand, Mr. Winterrowd.
MR. WINTERROWD: Take exception.
THE COURT: So, Mr. Bangerter, you can state any recommendation and/or sentencing comment.
MR. BANGERTER: Thank you, Your Honor. I just want to stress that nothing about this trial that we had or this defendant is typical, and therefore nothing about this sentence that the court imposes should be typical either. The state's ***requesting 30 days with 20 suspended, immediate shock incarceration, $500, zero suspended, and the 80 hours community work service required by statute, along with the three years probation.*** Although this is Mr. Winterrowd's first conviction, he does have a criminal history, criminal contact history: 2001, resisting arrest with the officer, which was dismissed; 2000, DWLS, which was dismissed.....
MR. WINTERROWD: Objection, all dismissed.
MR. BANGERTER: .....1999.....

THE COURT: Wait a minute. Mr. Winterrowd, what's the basis of this objection?
MR. WINTERROWD: He's bringing in things that there's no conviction.
THE COURT: All right.
MR. WINTERROWD: There's no anything, I've just been harassed. Why -- what's it got to do with anything?
THE COURT: ***He's allowed to state any police contacts.*** You can make your argument about the lack of convictions later, but, Mr. Bangerter, you can proceed.
MR. BANGERTER: Thank you, Your Honor. Ninety-nine, conditional release violations and two more DWLS's in '99, both of which were dismissed. Mr. Winterrowd also has a long list of traffic tickets and citations which he himself proclaims he's never paid. Mr. Winterrowd is facing more charges of DWLS and VCR. When he left this courtroom on 12/23 of '05 and in direct violation of one of his conditions of release, attempted to drive away from the courthouse.
THE COURT: Mr. Bangerter, those case -- those charges are still pending, is that correct?
MR. BANGERTER: Correct.
THE COURT: Let me just state for the record that since Mr. Winterrowd has a right to remain silent about those charges, for me to even consider that would put him in the awkward position of either waiving his right to remain silent or commenting on them, so, for that reason, I'm not going to consider any pending charges in this sentence. So you can proceed.
MR. BANGERTER: Thank you, Your Honor. I think it's important to note, Your Honor. that Mr. Winterrowd views and publicizes each one of these dismissals, nonpayments and violations as a victory

against the state. His actions encourage those who subscribe to his theories to break the law just like he does.

THE COURT: What do you mean publish?

MR. BANGERTER: He -- I can expand here.

THE COURT: Oh.

MR. BANGERTER: It's probable that at least some of these -- I'll talk about that later, it's -- but I just want to point out it's probable, through my conversations with our office, that some of these dismissals were made simply as a matter of practicality instead of any weaknesses in the case. ***Many attorneys and officers of the law know that because Mr. Winterrowd has unique political and legal views, any proceeding with him will be extremely difficult and timeconsuming.***

And so, the state's position is that, in essence, he has been rewarded with dismissals for being extremely difficult to work with. And, at least, I don't think this is how this should work.

As to the publication, he has a website and most -- multiple chat -- not chat rooms, but list serves, I think is the correct term, ***where he publicizes the events extensively, what happens in this courtroom***, and has multiple people that log on and read these comments that he makes about the court and these proceedings. ***And I've specifically seen where the dismissals were proclaimed as a victory against the state, and I believe that people are watching what Mr. Winterrowd does.***

He is, for lack of a better word, a leader of a substantial group of people that subscribe to his philosophies. ***His history of contacts with law enforcement authorities and his adamant refusal to play by the rules required for other***

citizens indicate that rehabilitation, one of the *Chaney* criteria that's most important, is unlikely. Mr. Winterrowd will likely continue to litigate these issues of driving privileges within this state, and will continue to drive while his Alaska driver's license is suspended just in order to make his point.

This court must also consider how the sentence will deter the defendant and other members of the society. And nothing that this court imposes will deter this defendant from his current path. ***Suspended time will be viewed and publicized on his websites as a victory against the state, just as the prior dismissals. Of particular importance in this case is the fact that many of Mr. Winterrowd's followers, for lack of a better word, are watching closely, and the events of this entire trial have been monitored and publicized on his website, and many individuals from the Chickaloon and other communities have been present during this trial. Most of them are interested in the issues of tribal sovereignty and the validity of a Chickaloon driver's license.*** As Your Honor knows, the state's position on this is that the ***Chickaloon driver's license has been decided in a higher court, and that this issue is irrelevant to the current proceedings***. In any case, it should be noted that what happens with Mr. Winterrowd will be noticed, and his sentence will have an effect on other individuals contemplating similar courses of conduct. Basically, our society, through the legislature, has decided that driving's a privilege to be exercised those [sic] who have demonstrated compliance with the DMV requirements, and ***immediate shock incarceration*** will reaffirm this societal norm, a societal norm which Mr. Winterrowd simply has to

comply with over and over.

At no time was -- did he basically raise a standard defense to this type of crime. His defense in this case included accusations of corrupt judiciary systems based on money and power. It also included wordplay, semantics and serious confusion as to the issues at play here. As the state I believe argued in closing arguments, this entire proceeding seems to be a game to Mr. Winterrowd which he enjoys playing, and it's the state's position that he basically drives around the state with his license suspended, camera in hand, wanting a confrontation with the officers of the law and wanting litigation.

Once again, just want to enforce -- or make this point, Your Honor, that nothing about this trial and this defendant was typical, and nothing about the sentence should be typical either. Many are watching. Once again, the state's request is 30 with 20 suspended, ***immediate shock incarceration,*** 500, zero; 80 CWS and three years probation. Thank you.

THE COURT: All right, thank you. Mr. Winterrowd, you do have the right to say something at this time, but you don't have to say anything if you don't want to.

MR. WINTERROWD: Oh, I'm going to say something, all right. I just got it flat out, ***because the man's a flat-out liar***, (indiscernible), and I object to everything he said. He has no evidence of what he's talking about. Let's do a chain of events here. First of all, these, quote, three traffic citations that got the 12 points, I had to petition. What's the evidence? It's in the Anchorage court to go to trial. ***I could not get to trial***. They did not give me notice of the 12 points. I have the, quote, insurance issue that were on the same time. Those are now sitting in

the Court of Appeals. I was denied the right to even go to trial because ***Officer Conley has unequivocally told me that, every time I see you, I can write you up for speeding. And, you know what? He's right.*** And I could not get them to trial on the traffic side at the same stop. I got the insurance ones, and they're sitting in the Court of Appeals right now. So I never had notice of this thing. That's the first thing that's wrong with this thing. I never had notice. I abided by the law, the statutes, as written, absolutely to the letter. I got around and I called Kansas. I said -- and, Linda, by the way, is her name, and it's on the web page, when the suspension is over, can I not get a Kansas driver's license? She says, yeah, just give me the AK number, criminal history, and if you have a -- if you're ever back in Kansas, you can get a Kansas driver license. ***So I did exactly the same thing at Chickaloon. I checked it out, and this man is an absolute liar.*** And I hate to use that word in a court, but it's very applicable because I'm tired of lies about something of which he has no evidence. The -- let me read the names of some of the -- of one of the ***tribes in Kansas*** that just litigated this. There are tribes in ***Minnesota*** that issue not only driver licenses, registrations, tags. And in ***Oklahoma*** -- let's see if I got the right one here. No, I don't. Just a minute here, I'll read the number. The case is *Prayban Oppotowatomi* (ph) *Indians versus Wagon*, and 7 -- 276 Fed. Supp., 2 second, 1168, 2003. And also there's a *Harrison versus State of Alaska*, 791 P.2d 359, 1-90, which ***[Chief Judge for the United States District Court in Anchorage] Mr. Singleton was then present. And he said that they – that the Chickaloon or the native tribes could issue driver licenses upon being federally***

recognized. They have been federally recognized many, many times by Congress, by the President of the United States under the executive power, and even by the governor.

So Chickaloon has a process. And I went over there and I took the criminal print out, just like I would have done in Kansas, went in and met their requirements, got a driver license. I had nothing to hide. I'm right to the letter of the law. I did absolutely nothing wrong. ***I have since filed for an injunction [3-06-CV-00035 USDC Anchorage – Dismissed and appealed to the 9th Circuit – 06-35719 - Dismissed] to shut down Chickaloon and to get these guys and Chickaloon together in the court because I don't want anybody going through what I did.*** I -- I did everything in good faith right to the letter of the law. Also in this particular situation, there's other cases, like *New Mexico versus Mescalero Apache*, 462 U.S. 324. Matter of fact, even give you a copy of this document here that has all these cases in it. And the United States has a fiduciary duty for the -- let's see, what's the word they use there -- they have a fiduciary duty here to recognize the tribes, that they become self-governing and exercise their sovereign powers not directly prohibited by Congress. It's being done in Kansas, it's being done in Minnesota and it's being done in Oklahoma.

I'm not out here -- I don't want to go to jail for some stupid reason. Yes, I read statutes. I read the stuff and I follow it right to the letter. I did my homework. I validated these cases, and I will give you a copy when we get through, and this gentleman over here, Mr. Bangerter. I did nothing wrong. I followed it right to the letter. Now, the next thing is about the other issues that you and I have had before

this that are on the record, is Mr. Krauss there, if we're going to follow the statute, I mean -- you know, I thought the legislature wrote statutes to be followed. It says here in 12.25.060, method of arrest by officer without warrant: When making an arrest without a warrant, the peace officer -- he claims he is -- shall inform to be arrested of the officer's authority and the cause of the arrest. ***Well, let's see, I have a video. Oh, look, it's really funny. I like these guys over here, this is all funny. [Police and Troopers in Court watching]***

The legislature, I don't know why we even have those people down there because nobody follows what they do. He said my license -- or my -- was -- I quote, ***Alaska driver's license was revoked. Over and over, revoked. It was not revoked. It was suspended, and the suspension time was over***. That was an incorrect probable cause. But, of course, that's irrelevant. I could have went over here to Alaska and got another Alaska driver license. Why wouldn't I? Do SR-22, so what, what's the big deal? I followed the -- ***because these guys [Alaska State Troopers] keep taking this driver's license, which if you go back and look, they would keep it.*** Like Nelson ***[In USDC – 3-02-cv-97 - on excessive force – took 5 years – win at 9th Circuit – 04-35855 – Winterrowd v. Nelson*, 480 F.3d 1181 (9th Cir. 2007)]**, they would take it, and I'd go down and get a new one next week, they take it, I go down and get a new one again. I said, you know, I've had enough of this. So let the record show that I object, because the authority -- and I tried to, I subpoenaed Krauss twice. You quashed it. You disallowed me in the court to get his authority. ***Strickler versus Green*** says I have the right, that's the Supreme Court of the United States, ***the right to impeach***

that man. You denied that right. ***And under Criminal Rule 16(a), you're withholding evidence to protect the State of Alaska, effective law enforcement and the attorneys and the judges, everybody.*** That's unconstitutional. And, by the way, that, I'm offering it in good faith, is I'm trying to get that changed through Representative Kohring down in the legislature right now. I am taking extreme steps to do everything to get this thing turned around lawfully and peacefully.

Now, as for all these things that they've said I'm putting on the Internet, you know what I put on the -- my Internet list pages? ***Your documents. If you don't want me to post them, quit writing them. Or want a better idea, why don't we try obeying them? That would really be a novel idea.*** And the next thing that I want to bring up here, what was the charge? Alaska Statute 28.15.291: A person is guilty of a class A misdemeanor if the person -- I'm not a person, but let's just say if I were -- drives a motor vehicle.

THE COURT: Just a minute.

(Whispered conversation between the Court and clerk)

THE COURT: I'm sorry, Mr. Winterrowd, you can proceed.

MR. WINTERROWD: It says here, drives a motor vehicle on a highway or a vehicular way when the person's driver's, apostrophe s, license, privilege to drive or privilege to obtain a license has been canceled, suspended or revoked. It had been suspended, oh, I agree. The suspension was over. I was free to make application anywhere. In Kansas, in Chickaloon, wherever. I called Kansas and I confirmed that just to make sure I was right. Now, that gentleman over there, Officer Krauss, being very

well coached, never once, and there's no evidence of the word motor vehicle ever entered into the testimony. It was always a vehicle. I attempted to elicit from him motor vehicle, is it different than a vehicle? You have to establish, number one, that it's a motor vehicle, and then you have to establish it's on a highway or vehicular way. I purposely left out highway and vehicular way on the jury instructions. You put them back in without my permission. Never even got to object to them, you just did it, and you were modifying things as you were putting it in. I have a right to look at all those jury instructions. I mean, you guys can't even get the revoked and suspension right on your own jury instruction. And I even tried to help you out. Was I not acting in good faith? I said, on your verdict, I don't want it revoked there, it's supposed to be suspended. I have absolutely nothing to hide in this situation. I am abiding by your statutory law.

So, number one, motor vehicle. There's no evidence. That's what I wanted to get the transcripts for, because he wouldn't testify to motor vehicles. Neither did that other fellow, Steed or Stein, whatever his name was. Number one, there was no motor vehicle involved. Was it a horse-drawn thing or what? There was no evidence. And that's been overthrown, too, on jury instructions. Highway and vehicular way. The State of Alaska's already ruled, if you don't establish that, it's an automatic win on appeal. So, number one, in a motor vehicle.

So now let's go to your statutes that he says I'm violating. I read your stuff. If I can't rely on those statutes, what am I to do? I made a good-faith effort. Your statute says, and I quote, vehicle is a device. That's number (24) out of 28.40.100. It's a device. It ain't got no way to get around, but it's a device. It's

like a trailer, something along that line. Then we got motor vehicle, (13) out of 28.40.100. It's a vehicle that's self-propelled, except it can't be moved by a human or animal. Okay. Well, mine wasn't moved by animal or human, I don't think. I'm not sure. Now, that defines the two types of devices. One has got a motor in it, one doesn't have a motor in it. And you, sir, purposely misinformed the jury because I tried to get in the uses of a commercial motor vehicle. And, first of all, you have to go down to the driver license, which is down here under (7) -- (8), I'm sorry, to a driver means a license, permit to drive a motor vehicle. Doesn't say vehicle, it says motor vehicle. So now we have to go to the uses under Mr. Bangerter's – I presume that he represents the statutory law of Alaska, I'm not sure, and I -- I'm assuming that you would uphold the statutory law as written. Commercial motor vehicle means a motor vehicle. Every one without exception. Or a combination of motor vehicles and vehicles, so we got to have tractor trailers. I have no problem with that. Then it lists out the uses: (a) transport passengers or property, it weren't doing that; used on land, highway or vehicular way and that has a gross weight exceeding blah-blah, over 26,000 pounds, no, weren't doing that; designed to transport -- transport more than 15 passengers including the driver, no, weren't doing that one; used in transportation of materials found in the Secretary of Transportation for hazardous purpose and 49 USC 5101 51-27, no, weren't doing that one. Now we have exceptions. It says except, e-x-c-e-p-t. The following, and they use the word vehicles, which is another lawyer trick, but let's just go along with it, except the following are excepted out of this: emergency and fire. This is (d), by the way, (d), and then number (2) is farm vehicles operated by a

farmer and blah-blah within a hundred -- and I'm not operating any farm, never claimed to be doing that, not operating any emergency or fire; or recreational vehicles used exclusively for purposes other than commercial purposes. And I sure am not under (3), any commercial purposes. I don't even need a driver's license, but I wasn't going there. I tried to do everything very methodically based on the statutory law, one step at a time. I have no intent to damage anybody. I've never had a traffic accident. I don't drive when I drink.

I've never had any of those things. I'm no thing to anybody. Am I out there telling the truth as I see it? Absolutely. I have the right of free speech. Now, Mr. Bangerter here wants to punish me for free speech. I would suggest, if he's monitoring the list, why don't he get on there and just have a chat about it? And, by the way, they are e-mail lists that are put out. Some are one-way and some they can talk about. And if he has a, quote, point of view in the law about his documents, because I use attachments, I don't put out my opinions, I put out the stuff. And here's how -- here's what it says. And I invite people to tell me it's wrong. ***And now I have taken the steps to get the Chickaloon driver's license shut down. [Since the trial and they refuse to defend it now]*** I have taken steps to get that man and the Chickaloon driver's license in court, and we're going to get this resolved because somebody's lying to somebody here. I operate in 100 percent good faith, I follow the statutory law to the nth degree, beyond the nth degree, and I'm not done yet with -- with the litigation because we're going to get this thing resolved. And all those other things, absolutely. The court system is in contracts with the cooperative agreements to make money behind the scenes,

$465,500 on the driver licenses. In the state plan, the driver license can be taken away if you don't pay a bill. That's under -- by the way, that's under 42 USC 4 -- or 666. I don't have a Social Security number in my true name. I have never surrendered my constitutionally secured rights. That was on the complaint. There's no evidence of that.

And then we get to the jury. I impeached the jury. I am not allowed to sit on a jury. I've tried to sit on the jury. Because I have been banished. And it's under a bill of attainder. That's what this whole driver's license thing is all about. This court system is making money off of this thing. They do not want to open this up to Chickaloon Village. I don't want to fight their battle. I'm in it, so now I got to fight it. ***They don't seem to want to fight it, for whatever reason. If I had it to do over, I'd just go back over here to the Alaska State, get a license***. Why should I fight their battle for them? They should be here with me. They chose not to be. Probably bought off or threatened, I don't know, because this battle for the truth is a tough battle.

I asked the jury if they were -- had a Social Security number. Yep. I asked them if they were a ***citizen of the United States.*** There is no such thing. A citizen of the United States are the same status that a Indian native has in Title 25, 1401 and 1404. ***Congress cannot, has no authority to declare a citizenship.*** They've declared a native under a citizen of the United States, and those people setting over there were citizens of the United States outside the Constitution. And that is accomplished by and through the Social Security Act, and you can read it in Title 42, section 405 (g) and (h). If you have a Social Security number, you're denied access to the

Constitution. That's Title 28, 1331.

See, I want my constitutional republic back. I want people that's out there, like Krauss, if he wants to play cop, I want him to abide by the law and put up a bond like he's supposed to have and abide by the statutory law. I want people to have an ***oath of office.*** What a novel idea. And I'd sure like to have somebody abide by these statutes. If they don't, quit printing them. I just learned how to read them. And if I'm wrong, tell me how to -- tell -- he -- come up here and tell me what's wrong with them. There's no evidence of a motor vehicle at all, not one. They were both very carefully coached to say the word vehicle.

Now, then, you take -- which is why I wanted Mr. Bannock here, because I have him in videotape, by the way, which I will be using down the road, in -- let's see here, let me find it. I just had it. Under 28.05.011, duty of commissioners to adopt regulations. ***Well, I got Mr. Bannock, which you disallowed me to have testify because he's the person that I was going to use to validate this.*** Like I say, I have a video of this. It seems as how the only regulations that they've adopted, it says here, this is in (b)(7), regulations necessary to implement commercial motor vehicle driver's, apostrophe s, licensing program. There is no licensing program within Alaska for a non-commercial motor vehicle. ***And I got a video of Mr. Bannock telling me that [Bannock is the top person in charge of DMV]*** , and here's the statute, because I read it to him. I said, okay, great. I want to get some permit, something for a non-commercial motor vehicle. Because I'm an exemption, I got a recreational vehicle. But I hadn't fought that battle yet because I was proceeding one step at a time, hadn't leaped off the cliff. There is no process in Alaska to obtain any

sort of a, quote, driver license. So I wasn't even in violation of any law.

Now, you can do with me what you want because this court doesn't even have cognizance of this class of cases because of the Chickaloon driver license issue, which should have been allowed in, because that is an issue of which the sovereignty of the -- which the United States has to defend for selfgovernment of the natives. And I've petitioned to get that into federal court, so we're going to see where that goes, because they're the ones that are supposed to deal with that issue.

I'm innocent of this whole thing. It was a setup, ***judicial lynching*** from one -- the jury was there, the jury instructions, you -- you purposely left out all of the instructions. ***You're supposed to give them the whole law and explain it***. You didn't do that. There's so many appealable issues that will win on this thing, it's unbelievable.

Now, he can try to do his ***shock stuff.*** Your statutory stuff says no jail time. ***I see people with DWI out here, no jail time, they make a deal.*** I tried to get my bail back. Punitive. I tried to -- put in what -- on the 20th, and you refused to deal with it. Other than that, I don't have anything to say, I guess.

THE COURT: All right. Thank you, Mr. Winterrowd. Well, first of all, I'm supposed to consider all -- various facts. And, first of all, your criminal history, you don't have any prior convictions for any offense. There's no -- even a hint of violence on your record. That speaks well of you. There are verified contacts with law enforcement in the past, which I am to consider, and, specifically, there are several relating to this specific type of offense. So that also goes, I think, to your knowledge of what the law requires of

you, and that you've had past dealings with law enforcement over your ***license being revoked.*** As far as the circumstances of this.....

MR. WINTERROWD: ***It was suspended.***

THE COURT: Suspended, thank you. As far as the.....

MR. WINTERROWD: ***Dog gone, we ought to get it right someday. Thank you.***

THE COURT: As far as the circumstances of this case goes, the objective facts of August the 10th, ***you were no more a danger*** on the -- to the public than anyone else driving a vehicle, even though your license was suspended, although you did not have insurance.

MR. WINTERROWD: Objection. That was never brought up. That's not so.

THE COURT: ***Your driving was not dangerous***, and it doesn't appear that you were under the influence or any other substance. So, in that respect, you were, like I say, no more a danger to the public than anyone else driving. The facts related to why you committed this offense, ***I think that sort of separates you from other people in that some people are trying to get licensed*** and are indigent or there are circumstances where they can't, and there's a need for them -- or they perceive a need to drive to either feed themselves through work or other reasons. The isolation of living in Alaska sometimes causes people to choose to drive even though they don't have a driver's license and can't get one. You're in a different category. You state that you were financially able to and could have gotten reinstated at any time you chose to. But in your case, you willfully chose not to get a license for your own reasons.

MR. WINTERROWD: I object to that.

THE COURT: You told the jury several times that you are quite intelligent and capable of understanding the law, and that you do study the law in your spare time. And I accept all of those propositions. You are a very intelligent person and you have a great deal of knowledge about the law. However, the way you presented the law, you read parts of the law and then didn't read other parts that pertained, and you read it in a misleading way and failed to read other portions that -- for example, you read the definition of a commercial motor vehicle, but then you just skipped over the fact that there was a perfectly good definition of motor vehicle. There were various other methods that you did this. And you do have strongly-held beliefs about society and the legal system, and you're entitled to those beliefs. I believe you're sincere in those beliefs, although I don't completely understand your thought process about them. But your beliefs are worthy of respect. However, in the way you presented your case, i believe you were less than forthright. As I mentioned, you misstated the law, or you quoted part of the law and not other parts that didn't play into how you wanted to present things. You tried to convince the jury that there was no law governing driver's license just as it pertains to noncommercial motor vehicles, which is clearly wrong, and I believe you know it's wrong because you are an intelligent person and you have studied the law. You.....

MR. WINTERROWD: Well, I object to that because I -- I had.....

THE COURT: I believe your presentation to the jury was deliberately misleading and simply an attempt to confuse the jury, to whom you referred to, you compared to them as thirdgraders attempting to understand your explanation as an engineer would

speak, so..... Second, you attempted to obtain jury nullification by repeatedly referring to some huge sum of money that the government makes, telling jurors that Criminal Rule 16 hides evidence from them, even though that's inaccurate.
MR. WINTERROWD: Objection.
THE COURT: Throughout your presentation of the law, it was less than forthright. I believe you do have sincere beliefs. You sincerely believe that you should be able to disregard any law that you don't like. You chafe at laws that society imposes on you. In some ways, I sympathize with your feelings. In the best of all worlds, there would be no need for law, we'd all be guided by our own moral principles, our own consciences and public -- sense of public responsibility, and we'd all contribute to our fair share of things that this society needs, like roads and schools and things like that. But we don't live in a perfect world, and all societies, anywhere you go in this world, will have rules. ***You are a person that I think is best described as a scofflaw.*** You know what the law is, but you choose to willfully disregard it. The sentencing criteria that I'm supposed to consider are what's called the *Chaney* criteria. There's five of those criteria. One is rehabilitation. I don't believe that this criteria applies to you at all. There's no alcohol or drugs that I can determine that had any effect on this. There's no mental defect that I can determine that is the cause of it. Another criteria is isolation. I also don't believe that this applies to you. Isolation is designed to protect society from people ***who are dangerous, and I don't believe you're a person that fits that criteria, based on your criminal history and anything I've observed.*** Another criteria is deterrence. There's two factors, deterrence of others and deterrence of

yourself. I believe that this is a very important criteria in fashioning a sentence for you. You are very -- by your own statements, you influence others, you have websites, and you provide -- I believe you said you provide legal counsel to other people. And I do know that you.....

MR. WINTERROWD: Objection.

THE COURT: .....were assisted at counsel table throughout this trial by another lady who has some driver's license issues as well I know with the court that are pending. I don't know whether you influenced her or not, but it's apparent that.....

MR. WINTERROWD: ***She is a public minister of Chickaloon.*** ***[Chickaloon Driver License Misdemeanor -Case of State v. Deborah Bloom,*** **3PA-04-0265CR of 2004** ***still pending after filing of a Civil Case*** **3PA-06-01082CI. – special treatment*]***

THE COURT: It's apparent that you are quite influential in a.....

MR. WINTERROWD: I'm not.

THE COURT: .....in a particular community. I also believe it's necessary to deter you, because you, because of your ***hostility towards authority***, are not going to be easily deterred. I also believe that community condemnation is a factor in this type of offense. Our community -- our state has a right and a duty to control who drives on the public highways, and our community expects that you will refrain from doing so unless you're properly licensed so that you can prove that you're able to drive safely and that you have the appropriate insurance. ***I believe you are in a different category than other people who come before the court with a first-time conviction for this offense.*** And I'm going to sentence you to ***180 days in jail***. I'm going to

suspend 150 of those days. I'm going to fine you ***$5,000.*** I'm going to suspend $4,000 of it. I'll give you one year to pay that. It'll be due February the 14th of '07. There will be a $50 police training surcharge that will be due in 10 days, and a $150 with $100 suspended jail surcharge. Your driver's license or privilege to obtain one will be revoked for an additional 90 days. You're required to perform ***80 hours*** of community work service, and I'll give you one year to complete that, so by February the 14th of '07. ***You'll be on probation for five years.*** The conditions of probation will be that you comply with court orders by the deadlines stated, commit no jailable offenses during probation. Your bail will be exonerated at this time. You do have the right to appeal. You have 15 days from today. You'll be given a copy of this judgment today, so you have 15 days from today to file that appeal with the Court of Appeals. There's a form available at the court clerk's office to do so. You're entitled to appointment of counsel to assist you in that appeal if you financially qualify. You've previously told me that you don't. But if you do believe that you qualify for appointed counsel, there is a form available across the hall, it's a financial affidavit and application for counsel, fill it out and turn it in to me, and I'll appoint counsel if you qualify. You'll be remanded to custody at this time. Anything further from the state on this matter?
MR. BANGERTER: No, Your Honor. Thank you.
THE COURT: Mr. Winterrowd, any questions or anything else?
MR. WINTERROWD: I would like the -- to stay and the right to bail out until pending appeal.
THE COURT: Mr. Winterrowd, if you file an appeal, you have the right to seek a stay at that time. File your motion for stay, it will be granted, and I'll set

appropriate bail conditions at that time. We can go off record. (Off record)

TRANSCRIBER'S CERTIFICATE
I, KRISTEN K. REYNOLDS, do hereby certify that: I am a Alaska State Court Systems certified transcriber, and have been such since 1981; that the foregoing transcript of proceedings was transcribed by me; that the transcript consists of three volumes totaling 465 pages, plus the table of contents; and that said transcript constitutes a full, true and correct record of said proceedings taken on the dates indicated therein. Further, that I am a disinterested person to said action.
IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of April, 2006.
Kristen K. Reynolds
Alaska State Court System Certified
Transcribe

Appendix 09 - September 14, 2005 - Motion for Independent Judge Challenging Judge Wolfe [Motion was never Ruled upon]

Ralph Kermit Winterrowd 2nd
c/o P.O. Box 877109
Knik,
Alaska territory
The United States of America [99687]
357-8003 H, 244-9100 Cellular

District Court of Alaska
Third District
Palmer, Alaska

STATE OF ALASKA

Plaintiff
v.
Ralph Kermit Winterrowd 2nd
Accused

Case 3PA-05-2098 CR
Demand for an Independent Judge not a Member of the Alaska Bar Association

Come now , Ralph Kermit Winterrowd 2nd (hereafter "Winterrowd"), with this Demand for an Independent Judge not a Member of the Alaska Bar Association (hereafter "Demand").

All Attachments in this Demand are entered under Alaska Evidence Rule 303 as presumptions against the government and therefore require *evidence* under Alaska Evidence Rule 301 to rebut. And further, all Attachments are entered under Alaska Evidence Rule 901.

Deborah O'Regan is the custodian of the public Records of the Alaska Bar Rule 5 Attorney Oaths and the Alaska Bar Rule 64 Affidavits in the Alaska Bar Association at 550 West 7th Avenue, Suite 1900, Anchorage, Alaska 99501.

Lee Powelson of Human Resources at 820 West 4th Avenue, Anchorage, Alaska 99501 is the custodian of the Records of the Oaths of Office and Employee Affidavits as best Winterrowd could determine as the Human Resources personnel refuse to identify who is the custodian of the public Records. The personnel of Human Resources have refused to allow Winterrowd to inspect the purportedly public Records to determine what employee affidavits and other documents are still in the purported public files.

Susan Fischetti, Director, Boards and Commissions is the custodian of the Appointment

Letters at P.O. Box 110001, Juneau, Alaska 99811-0001.

Winterrowd has personally watched John W. Wolfe (hereafter "Wolfe") violate the Constitution of the United States and the Bill of Rights repeatedly; and, violate the statutory laws of Alaska repeatedly; and, contumaciously pontificate orders knowing there are no true Counsellors-at-law in the territorial boundaries of Alaska, i.e. anyone to provide "Assistance of Counsel" as secured in the Sixth Amendment; and, with all of his actions being machinations with the full knowledge and intent that under the Rules of Professional Code of Conduct (hereafter "RPC") 1.2(a) an Attorney-at-law (sic) limits purported Defendants to just four items, which in reality if a Defendant could find an Attorney to represent him (sic), this would be giving a full power of attorney to an attorney waiving all of his constitutionally secured rights with the exception of these four items not disclosed in an unconscionable contract ***not on the record***.

RPC 1.2(a) is a follows, to wit:

> **(a) A lawyer shall abide by a client's decisions concerning the objectives of representation**, subject to paragraphs (c), (d) and (e), and shall consult with the client as to the means by which they are to be pursued. **A lawyer shall abide by a client's decision whether to accept an offer of settlement of a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial, whether the client**

> **will testify, and whether to take an appeal.** ***[Emphasis added]***

And further, under the RPC 1.2(e) the attorney is to disclose the limits of his representation, to wit:

> **(e) When a lawyer knows that a client expects assistance not permitted by the rules of professional conduct** or other law, **the lawyer shall consult with the client regarding the relevant limitations on the lawyer's conduct.** ***[Emphasis added]***

And further, under RPC 1.2(c)(1), there must be a ***written contract*** under RPC 1.5, which ***shall describe the limitation on the representation***, to wit:

> (1) If a **written fee agreement is required by Rule 1.5**, the agreement shall describe the **limitation on the representation**. ***[Emphasis added]***

And further under RPC if the fee exceeds $500 there shall be a written agreement, which also discloses the liability of the Attorney under RPC 1.4(c), to wit:

> **(b) The basis or rate of a fee exceeding $500 shall be communicated to the client in a written fee agreement before or within a reasonable time after commencing the representation.** This written fee agreement **shall include the disclosure required under Rule 1.4(c).** ***[Emphasis added]***

See also *Simeon v. State of Alaska*, 90 P.3d 181, 183-185 (Alaska App 2004); *Osborne v. State*, 110 P.3d 986, 991 (Alaska App. 2005).

And further, Wolfe with the Alaska Bar Number of 9804004 is an active member of the Alaska Bar Association as evidenced by the Alaska Bar Rule Attorney Oath (hereafter "Attorney Oath") which has no Office with Powers and Duties created by the any constitution, any legislature, or Congress in the public records of the Alaska Bar Association dated April 15th, 1998, being **Attachment A.**

And further, Wolfe has filed Alaska Bar Rule 64 "Mandatory Affidavit of Review of Alaska Rules of Professional Conduct; Suspension for Noncompliance" dated April 20, 1998 (hereafter "Rule 64 Affidavit") that Wolfe is familiar with the Alaska Rules of Professional Conduct, being **Attachment B.**

And further, Wolfe has filed with the Alaska Court System in Anchorage, Alaska, a purported Oath of Office required by all public officers in the Constitution of the State of Alaska Article XII section 5 (hereafter "Subscribed Oath") to be sworn and subscribed, being **Attachment C.** This purported Subscribed Oath isn't the exact wording mandated for ***all public officers*** by Article XII section 5 in quotation marks, said Subscribed Oath isn't to the to the "Constitution of the United States" as mandated by Article XII section 5, said Subscribed Oath isn't to the "Constitution of the United States" as mandated by Article VI of the Constitution of the United States, and said Subscribed Oath isn't to the Constitution of the United States as mandated by 1 Stat 23, being the very first Law of the United States.

And further, Wolfe did take a purported sworn Oath of Office in Palmer, Alaska on May 6, 2005 (hereafter "Sworn Oath") that Winterrowd has had transcribed, being **Attachment D**, from Chief

Justice Alexander Bryner, which again this purported Sworn Oath does not exactly match the subscribed Oath of Office for ***all public officers*** mandated in Article XII section 5 of the Constitution of the State of Alaska. But now, Wolfe has in his Sworn Oath used the words "Constitution of the United States" instead of the "Constitution of the United States of America" in the Subscribed Oath.

And further, Wolfe has a employee affidavit that the Alaska Court System Human Resources in Anchorage, Alaska refuses to acknowledge the existence of or allow Winterrowd to even inspect the purported public records at 820 West 4th Avenue, Anchorage, Alaska 99501 in the Human Resources Records section of which Winterrowd has numerous copies of other purported judge's Employee's Affidavits. I have attached a copy of Beverly Cutler's Employee Affidavit in the Alaska Court System obtained from the Human Resources Records section, being **Attachment E**.

And further, Wolfe has an Appointment Letter (hereafter "Appointment Letter") of which has no Letter Head, has no Signature, no Seal of the State of Alaska to validate the Governor's signature if there was one, no Powers and Duties, and no Office, being **Attachment F**. As Wolfe has no Civil Commission, he is never been appointed to any Office to exercise any Powers of the State. This is in violation of ©AS 39.05.035, *Marbury v. Madison*, 5 U.S. 137, 157-159 (1803), and *United States v. LeBaron*, 60 U.S. 73, 78 (1856).

Winterrowd has included a copy a real Civil Commission in Alaska that used to be in the Human Resources public Records, but as I can't inspect same anymore, this public Record may have been removed, being **Attachment G.**

Wolfe is bound as a *judicial officer* to the Judicial Code in "Application of the Code of Judicial Conduct" in which the judge is the "***arbiter of the facts and law***" as found in the Preamble. This is unconstitutional and complete denial of Due Process of Law to Winterrowd as held in the adjudged decision of the Supreme Court in *Sparf v. United States*, 156 U.S. 51 (1895), as the ***jury alone are the arbiters of the facts***.

Judges must be ***totally independent*** and not bound by the Alaska Bar Rules, RPC and the Judicial Code of Conduct under the total control of the Alaska Bar Association and the total control of SCOs of the Justices of the Supreme Court of Alaska, being Alaska Bar Members themselves. It is unambiguous that a judge must be ***totally independent*** as held in the adjudged decision of the Supreme Court of the United States in *United States v. Hatter*, 532 U.S. 557, 568, 569 (2001), to wit:

> Chief Justice John Marshall pointed out why this protection is important. A judge may have to decide "**between the Government and the man whom that Government is prosecuting: between the most powerful individual in the *569 community, and the poorest and most unpopular.**" Proceedings and Debates of the Virginia State Convention, of 1829-1830, p. 616 (1830). **A judge's decision may affect an individual's "property, his reputation, his life, his all."** Ibid. In the "**exercise of these duties,**" the judge must "**observe the utmost fairness.**" Ibid. The judge must be "perfectly and completely

> independent, with nothing to influence or contro[l] him but **God and his conscience."** Ibid. **The "greatest scourge ... ever inflicted," Marshall thought, "was an ignorant, a corrupt, or a dependent Judiciary."** Id., at 619. **[Emphasis added]**

And further we find in the adjudged decision of *O'Donoghue v. United States*, 289 U.S. 516, 530-532 (1933), to wit:

> Thus, in the Federalist, No. 78, Hamilton said: **'The complete independence of the courts of justice is peculiarly essential in a limited Constitution.'** And in No. 79: 'Next to permanency in office, nothing can contribute more to the independence of the judges than a fixed provision for their support. * * * **In the general course of human nature, a power over a man's subsistence amounts to a power over his will.'** (The italics are in the original.)
>
> *532 Chief Justice Marshall, in the course of the debates of the Virginia State Convention of 1829--1830 (pp. 616, 619), used the following strong and frequently quoted language:
>
> **'The Judicial Department comes home in its effects to every man's fireside; it passes on his property, his reputation, his life, his all. Is it not, to the last degree important, that he should be rendered**

> **perfectly and completely independent, with nothing to influence or control him but God and his conscience? * * * I have always thought, from my earliest youth till now, that the greatest scourge an angry Heaven ever inflicted upon an ungrateful and a sinning people, was an ignorant, a corrupt, or a dependent Judiciary.'**
>
> **In a very early period of our history, it was said, in words as true to-day as they were then, that 'if they (the people) value and wish to preserve their Constitution, they ought never to surrender the independence of their judges.'** Rawle on the Constitution (2d Ed.) 281. ***[Emphasis added]***

And further, as Wolfe is bound by the Alaska Court Rule 16(a), which is as follows, to wit:

> **(a) Scope of Discovery.** In order to provide adequate information for informed pleas, expedite trial, minimize surprise, afford opportunity for effective cross-examination, and **meet the requirements of due process, discovery prior to trial should be as full and free as possible consistent with protection of persons, effective law enforcement, and the adversary system.** ***[Emphasis added]***

This Alaska Criminal Rule 16(a) is unconstitutional and Wolfe along with all of the Attorneys are bound to withhold inculpatory and

exculpatory evidence, including impeachment evidence, to protect persons (the State of Alaska), to protect effective law enforcement (all troopers and police and those associated with them), and to protect the adversary system (judges, justices, prosecutors, Alaska Bar members).

This withholding of inculpatory and exculpatory evidence in unconstitutional and must be disclosed to the Accused prior to a Trial by Jury and this is held in the adjudged decision of *Strickler v. Greene*, 527 U.S. 263, 280, 281 (1999), to wit:

> [1][2][3] In Brady, this Court held "**that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.**" 373 U.S., at 87, 83 S.Ct. 1194. **We have since held that the duty to disclose such evidence is applicable even though there has been no request by the accused**, United States v. Agurs, 427 U.S. 97, 107, 96 S.Ct. 2392, 49 L.Ed.2d 342 (1976), **and that the duty encompasses impeachment evidence as well as exculpatory evidence**, United States v. Bagley, 473 U.S. 667, 676, 105 S.Ct. 3375, 87 L.Ed.2d 481 (1985). Such evidence is material "**if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.**" Id., at 682, 105 S.Ct.

> 3375; see also Kyles v. Whitley, 514 U.S. 419, 433-434, 115 S.Ct. 1555, 131 L.Ed.2d 490 (1995). Moreover, the rule encompasses evidence "**known only to police *281 investigators and not to the prosecutor.**" Id., at 438, 115 S.Ct. 1555. In order to comply with Brady, therefore, "**the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in this case, including the police.**" Kyles, 514 U.S., at 437, 115 S.Ct. 1555. ***[Emphasis added]***

Therefore, I demand that Wolfe remove (recuse) himself immediately from this instant Case, and that Winterrowd have an ***independent judge*** that is not limited and bound the Alaska Bar Rules, Judicial Code of Conduct and the Professional Code of Conduct.

And further, I am seeking someone to provide me Assistance of Counsel as secured in the Sixth Amendment that is not limited by the Alaska Bar Rules, Judicial Code and the Professional Code of Conduct, or if any said Attorney will represent me, I want it in a written agreement with all of the limitations so stated under the signature of the purported Attorney. I have attached an Attorney and Counsellor-at-law Contract, and incorporate it into the Record of the Court, being **Attachment H.**

And further, under the criteria established and articulated by the Supreme Court of the United States in *Ex parte Bollman* 8 U.S. 75, 125-129 (1807) on waging War on the United States, I allege that Wolfe is committing acts of Treason.

And further, under the unambiguous language of Congress on domestic terrorism 18 U.S.C. 2331(5)(B)(i), I allege that the Alaska Bar Association and said members are conducting activities that qualify as domestic terrorism.

And further, it is incontrovertible that the Assistance of Counsel as secured in the Sixth Amendment and in the Judiciary Act of Congress in Section 35, being a Law of the United States has been eviscerated by the flagitious actions of the American Bar Association and Alaska Bar Association; and, it's members with the direct participation and intentional actions of the Justices of the Supreme Court of Alaska irremediable until the Alaska Bar Association is immediately and totally disbanded; and, Counsellors-at-law are reestablished; and, a judges that are totally independent are once again reestablished.

And further, this instant case should immediately be dismissed as these mandatory constitutional requirements are not immediately available in Alaska.

And further, Winterrowd is left with not other option in Wolfe's case that to file a *writ of quo warranto* in the Courts of the United States, which will be accomplished soon to effect the return of truly independent judges in the territorial boundaries of Alaska.

My Hand

Certification

I certify that I did personally leave a copy of the document or mail it first class United States Postal Service to the following parties.

District Attorneys Office

Rick Allen
11921 Palmer Wasilla Highway Ste 100
Palmer, Alaska 99645
907-745-5027 phone
907-745-7567 fax
Date _____

_____
Signature

Appendix 10 - Appointment Letter of Judge Wolfe

November 17, 2004

John Wolfe, Esq.
P.O. Box 912
Dillingham, Ak 99576

Dear Mr. Wolfe:

I am please you have accepted an appointment to the Palmer District Court, Third Judicial District.

You outstanding qualification and your record of public service are a positive testament to your ability to serve the people of the State of Alaska as a member of Alaska's judiciary.

All my best wishes to you in your new endeavor.

Sincerely yours
S/S FRANK H. MURKOWSKI [Stamped only]
Frank H. Murkowski
Governor

Cc:Laraine L. Derr, Director, Boards and Commissions

Larry Cohn, Executive Director, Alaska Judicial council

Stephanie Cole, Administrative Director, Alaska Court System

Marla Greenstein, Executive Director, Commisioner on Judicial Conduct

Appendix 11 - Civil Commission of the State of *Alaska*

STATE OF ALASKA
THE GOVERNOR OF THE STATE OF ALASKA
TO ALL WHO SHALL SEE THESE PRESENTS
GREETING

KNOW YE, That reposing special trust and confidence in the *Integrity, Ability and Loyalty*, of

JAY A. RABINOWITZ

in and for the State of Alaska and do authorize and empower him to execute and fulfill all the duties of that office according to Law and to have and to hold the said Office with all powers to the same of right appertaining thereunto subject to the conditions prescribed by law.

IN TESTIMONY WHEREOF I have caused the seal of the State of Alaska to be hereunto affixed.

GIVEN under my hand at Juneau the Fourth day of March in the year of our Lord one thousand nine hundred and sixty-five.

/s/ William A Eagan [actual signature]

Governor of Alaska

[SEAL]

BY THE GOVERNOR
/s/ Unable to read, but a signature
Secretary of the State

Appendix 12 - Oath of Office of Judge Wolfe

OATH OF OFFICE

[Outline of Alaska – line drawing with flag in middle] I. John W. Wolfe [printed], do solemnly swear that I will support an defend the Constitution of the United Sates of America and the constitution of the State of Alaska and that I will faithfully discharge my duties as a judicial officer for the State of Alaska to the best of my abilities.

/s/ John W. Wolfe

SWORN AND SUBSCRIBED to before me in Palmer, Alaska on the 3rd day of January, 2005
(SEAL)

/s/Eric Smith

Signature of Person Authorized to Administer Oaths

Appendix 13 - Employee Affidavit of Beverly Cutler -Presiding Judge over Judge Wolfe

EMPLOYEE AFFIDAVIT

02-024 (Rev. 4/76) **STATE OF ALASKA**
EMPLOYEE AFFIDAVIT

Beverly Cutler — Court System
Employee — Department

OATH OF OFFICE

(Prescribed by Chapter 162, ALA 1959)

I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as District Court Judge [printed] to the best of my ability.

/s/ Sandy Blackmore — /s/ Beverly W. Cutler
Department Representative — Signature of Employee

Date Sept 26, 1977 [printed]